

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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CITIZENS FOR RESPONSIBILITY AND)	
ETHICS IN WASHINGTON,)	
)	
	<i>Plaintiff,</i>)	
)	
v.)	Civil Action No. 22-3511 (RC)
)	
U.S. IMMIGRATON AND CUSTOMS)	
ENFORCEMENT,)	
)	
	<i>Defendant.</i>)	
<hr/>)	

ANSWER

Defendant, U.S. Immigration and Customs Enforcement (“ICE”), hereby answers Plaintiff’s Complaint, ECF No. 1. Defendant denies each allegation of the Complaint not expressly admitted in its Answer and admits, denies, or otherwise responds to the numbered paragraphs of the Complaint as follows:

1. The allegations contained in Paragraph 1 consist of Plaintiff’s characterization of this action brought pursuant to the Freedom of Information Act (“FOIA”) and its request for relief to which no response is required. To the extent that a response is deemed required, Defendant admits that Plaintiff purports to bring this action under the FOIA, 5 U.S.C. § 552, *et seq.*

2. The allegations contained in Paragraph 2 consist of Plaintiff’s characterization of this action brought pursuant to FOIA and its request for relief to which no response is required.

Jurisdiction And Venue¹

3. The allegations contained in Paragraph 3 consist of legal conclusions regarding jurisdiction to which no response is required. To the extent that a response is deemed required, Defendant admits that this Court has subject matter jurisdiction over FOIA claims subject to the limitations of the FOIA.

4. The allegations contained in Paragraph 4 consist of legal conclusions regarding venue to which no response is required. To the extent that a response is deemed required, Defendant admits that venue is proper in this Court.

PARTIES

5. Defendant lacks sufficient information or knowledge to form a belief as to the truth or falsity of the allegations contained in Paragraph 5.

6. Defendant only admits that it is a federal agency within the meaning of 5 U.S.C. § 552(f). The remaining allegations contained in Paragraph 6 consist of legal conclusions to which no response is required.

Factual Background

7. The allegations contained in Paragraph 7 do not set forth claims of relief or aver facts in support of a claim, and thus, the Court should strike them as immaterial and impertinent matters pursuant to Rule 12(f). To the extent the allegations seek to provide background facts in support of allegations of public interest, Defendant admits there is some public interest in the records sought but presently lacks knowledge or information sufficient to form a belief as to the extent of that public interest, including as compared to any countervailing interests.

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

Additionally, the allegations in Paragraph 7 purport to characterize an Executive Order, which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the cited Executive Order and denies the allegations to the extent they are inconsistent with the Executive Order.

8. The allegations contained in Paragraph 8 do not set forth claims of relief or aver facts in support of a claim, and thus, the Court should strike them as immaterial and impertinent matters pursuant to Rule 12(f). To the extent the allegations seek to provide background facts in support of allegations of public interest, Defendant admits there is some public interest in the records sought but presently lacks knowledge or information sufficient to form a belief as to the extent of that public interest, including as compared to any countervailing interests. Additionally, the allegations in Paragraph 7 purport to characterize an Executive Order, which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the cited Executive Order and denies the allegations to the extent they are inconsistent with the Executive Order.

9. Defendant admits that Plaintiff submitted a FOIA request to ICE on or about June 17, 2022. The remaining allegations contained in Paragraph 9 consist of Plaintiff's characterization of the June 17, 2022, FOIA request which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the relevant FOIA request and denies the allegations to the extent they are inconsistent with the request.

10. Defendant admits the allegations contained in Paragraph 10.

11. Defendant admits the allegations contained in Paragraph 11.

12. Defendant admits that Plaintiff e-mailed Defendant on November 4, 2022 and that on November 4, 2022, Defendant acknowledged Plaintiff's e-mail. The remaining allegations

contained in Paragraph 12 consist of Plaintiff's characterization of Defendant's response which speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to the cited correspondence and denies the allegations to the extent they are inconsistent with the response.

13. Defendant admits that Plaintiff e-mailed Defendant on November 7, 2022 and that Defendant responded on November 8, 2022. The remaining allegations contained in Paragraph 13 consist of Plaintiff's characterizations of Plaintiff's e-mail and Defendant's response, each of which speak for themselves and are the best evidence of their contents. Defendants respectfully refer the Court to the cited communications and deny the allegations to the extent they are inconsistent with the e-mail and response.

14. Defendant admits the allegations contained in Paragraph 14.

CREW'S CLAIM FOR RELIEF

ICE's Wrongful Withholding of Records Responsive to CREW's FOIA Request

15. Defendant incorporates its responses to Paragraphs 1 through 14 as set forth above.

16. The allegations in Paragraph 16 consist of legal conclusions to which no response is required.

17. The allegations in Paragraph 17 consist of legal conclusions to which no response is required.

18. The allegations in Paragraph 18 consist of legal conclusions to which no response is required.

19. The allegations in Paragraph 19 consist of legal conclusions to which no response is required.

20. The allegations in Paragraph 20 consist of legal conclusions to which no response is required.

REQUESTED RELIEF

The remaining portions of the Complaint contain Plaintiff's request or prayer for relief to which no response is required. To the extent that a response is required, Defendant denies 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, Defendant raises the following defenses. Defendant 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 Defendant throughout the course of this litigation.

FIRST DEFENSE

Defendant is entitled to utilize all exemptions and other defenses available under the FOIA and Privacy Act which prevent disclosure.

SECOND DEFENSE

The Court lacks subject matter jurisdiction over Plaintiffs' request for relief that exceeds the relief authorized under the FOIA.

THIRD DEFENSE

At all times alleged in the Complaint, Defendant acted in good faith, with justification, and pursuant to authority, and exceptional circumstances exist that necessitate additional time for Defendant to process Plaintiffs' FOIA Request.

FOURTH DEFENSE

Plaintiff's FOIA request does not reasonably describe the records sought, and therefore does not comply with the FOIA and/or does not trigger a search of production obligation.

FIFTH DEFENSE

Plaintiff is not entitled to any relief that is not provided for in 5 U.S.C. § 552(a)(4)(B).

SIXTH DEFENSE

Plaintiff is not entitled to attorneys' fees or costs.

SEVENTH DEFENSE

The Complaint violates Rule 8(a)(2) by alleging information that is unnecessary to a “short and plain” statement of the claim. The Court should strike all such immaterial and impertinent matters pursuant to Rule 12(f).

* * *

Dated: January 30, 2023
Washington D.C.

Respectfully submitted,

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