

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

	)	
CITIZENS FOR RESPONSIBILITY AND	)	
ETHICS IN WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:23-CV-00290
	)	
U.S. CUSTOMS AND BORDER	)	
PROTECTION,	)	
	)	
Defendant.	)	

ANSWER

Defendant U.S. Customs and Border Protection (“Defendant” or “CBP”) hereby submits its answer to the Complaint filed on February 1, 2023 by Plaintiff Citizens for Responsibility and Ethics in Washington (“Plaintiff” or “CREW”). All allegations not specifically admitted are denied.

1. Defendant admits Plaintiff’s allegations in paragraph 1 of its complaint, that on June 8, 2022, it received a request (“Request”) under the Freedom of Information Act (“FOIA”) from Plaintiff, and respectfully refers the Court to Exhibit 1 of Plaintiff’s complaint for a true and accurate description of its contents, and denies any characterization in paragraph 1 that is inconsistent therewith. The rest of this paragraph consists of Plaintiff’s characterization of this action and legal conclusions, to which no response is required.

2. Paragraph 2 consists of Plaintiff’s characterization of the relief sought in the Complaint, to which no response is required.

3. Paragraph 3 consists of legal conclusions regarding jurisdiction, to which no response is required. To the extent a response is required, Defendant admits that this Court has jurisdiction over the FOIA allegations in this matter.

4. Paragraph 4 consists of legal conclusions regarding venue, to which no response is required. To the extent a response is required, Defendant admits that venue is proper in this matter.

5. Paragraph 5 consists of Plaintiff's characterization of itself and its motivations for filing the Complaint in this Court, to which no response is required. To the extent a response is required, Defendant lacks sufficient information or knowledge to admit or deny the allegations.

6. Paragraph 6 is admitted.

7. Paragraph 7 consists of a legal conclusion, to which no response is required. To the extent a response is deemed necessary, Defendant denies the allegations contained in this paragraph.

8. Admitted.

9. Paragraph 9 consists of Plaintiff's characterization of alleged background information, not allegations of fact pertinent to the resolution of the claims at issue in this FOIA action to which a response would be required. The allegations in this Paragraph 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).

10. Paragraph 10 consists of Plaintiff's characterization of alleged background information, not allegations of fact pertinent to the resolution of the claims at issue in this FOIA action to which a response would be required. The allegations in this Paragraph 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).

11. Paragraph 11 consists of Plaintiff's characterization of alleged background information, not allegations of fact pertinent to the resolution of the claims at issue in this FOIA action to which a response would be required. The allegations in this Paragraph 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).

12. Paragraph 12 consists of Plaintiff's characterization of alleged background information, not allegations of fact pertinent to the resolution of the claims at issue in this FOIA action to which a response would be required. The allegations in this Paragraph 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).

13. Defendant admits that it received the Request on June 8, 2022, and respectfully refers the Court to Exhibit 1 of Plaintiff's Complaint for a true and accurate description of the contents of this request and denies any characterization in paragraph 13 inconsistent therewith.

14. Defendant respectfully refers the Court to Exhibit 1 of Plaintiff's Complaint for a true and accurate description of the contents of this request and denies any characterization in paragraph 14 inconsistent therewith.

15. Defendant respectfully refers the Court to Exhibit 1 of Plaintiff's Complaint for a true and accurate description of the contents of this request and denies any characterization in paragraph 15 inconsistent therewith.

16. Defendant respectfully refers the Court to Exhibit 1 of Plaintiff's Complaint for a true and accurate description of the contents of this request and denies any characterization in

paragraph 16 inconsistent therewith.. The rest of the paragraph consists of legal conclusions, to which no response is required. To an extent a response is required, Defendant denies.

17. Paragraph 17 consists of Plaintiff's characterization of alleged background information, not allegations of fact pertinent to the resolution of the claims at issue in this FOIA action to which a response would be required. The allegations in this Paragraph 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).

18. Paragraph 18 consists of Plaintiff's characterization of itself and its motivations for filing the Complaint in this Court, to which no response is required. To an extent a response is required, Defendant lacks knowledge or information to form a belief about the truth of the allegations in this paragraph and therefore denies same.

19. Paragraph 19 consists of a legal conclusion, to which no response is required.

20. Defendant admits that it issued a letter acknowledging Plaintiff's FOIA Request on June 9, 2022, and issued a separate letter on the same date asking to clarify the scope of the Request, and respectfully asserts that those documents are the best evidence of their contents and denies any characterization in paragraph 20 inconsistent therewith.

21. Defendant admits that it received CREW's response to Defendant's request to clarify the scope of the Request, and respectfully refers the Court to that response for a true and accurate description of its content and denies any characterization inconsistent therewith.

22. Admitted.

23. Admitted.

24. Admitted.

25. Paragraph 25 repeats and re-alleges the preceding paragraphs. Defendant hereby repeats and re-alleges the preceding paragraphs.

26. Paragraph 26 consists of a legal conclusion, to which no response is required.

27. Paragraph 27 consists of a legal conclusion, to which no response is required.

28. Paragraph 28 consists of a legal conclusion, to which no response is required.

29. Paragraph 29 consists of a legal conclusion, to which no response is required.

30. Paragraph 30 consists of a legal conclusion, to which no response is required.

The remaining paragraphs of the Complaint contain Plaintiff's Requested Relief, to which no response is required.

#### DEFENSES

Defendant hereby denies all allegations in the Complaint not expressly admitted or denied. For further defenses, Defendant alleges as follows:

#### FIRST DEFENSE

The information, in whole or in part, that Plaintiff seeks in its FOIA request is exempt from disclosure under the FOIA, and Defendant has not improperly withheld any records under 5 U.S.C. § 552, as amended.

#### SECOND DEFENSE

This Court lacks subject matter jurisdiction over any of Plaintiff's request for relief that exceeds the relief authorized by the FOIA, 5 U.S.C. § 552.

#### THIRD DEFENSE

Any information that Defendant has withheld, or will withhold, in response to Plaintiff's FOIA request may be exempt in whole or in part from public disclosure under the FOIA, 5 U.S.C. § 552.

FOURTH DEFENSE

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

FIFTH 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).

Defendant may have additional defenses which are not known at this time but which may become known through further proceedings. Accordingly, Defendant reserves the right to assert each and every affirmative or other defense that may be available, including any defenses pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

DATED: March 9, 2023

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