

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY  
AND ETHICS IN WASHINGTON,**

*Plaintiff,*

v.

**U.S. DEPARTMENT OF JUSTICE,  
950 Pennsylvania Ave., N.W.  
Washington, DC 20530**

*Defendant.*

Case No. 1:19-cv-02267-EGS

**DEFENDANT’S ANSWER TO PLAINTIFF’S AMENDED COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

Defendant, the United States Department of Justice (“DOJ” or “Defendant”), by and through its undersigned counsel, hereby answers the numbered paragraphs of the amended complaint of Citizens for Responsibility and Ethics in Washington (“CREW” or “Plaintiff”), ECF No. 6, as follows:

1. This paragraph consists of Plaintiff’s characterization of this lawsuit to which no response is required.
2. This paragraph consists of Plaintiff’s characterization of this lawsuit to which no response is required.
3. This paragraph consists of legal conclusions to which no response is required.
4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in this paragraph.

5. Defendant admits that DOJ is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 701. Defendant admits that the Executive Office for United States Attorneys (“EOUSA”), the Office of Information Policy (“OIP”), the Criminal Division, and the Federal Bureau of Investigation (“FBI”) are components of DOJ. The remainder of this paragraph consists of legal conclusions to which no response is required.

6. This paragraph consists of legal conclusions to which no response is required.

7. This paragraph consists of legal conclusions to which no response is required.

8. This paragraph consists of legal conclusions to which no response is required.

9. This paragraph consists of legal conclusions to which no response is required.

10. This paragraph consists of legal conclusions to which no response is required.

11. This paragraph consists of legal conclusions to which no response is required.

12. This paragraph consists of legal conclusions to which no response is required.

13. Defendant admits that on July 17, 2019, United States District Court Judge William H. Pauley III entered a memorandum and order that ordered the government to publicly file – with limited redactions – certain materials related to searches conducted of Michael Cohen’s residence, hotel room, office, safe deposit box, cell phones, and electronic communications, and Defendant respectfully refers the Court to Judge Pauley’s memorandum and order for a complete and accurate statement of its contents.

14. Defendant admits that Judge Pauley’s July 17, 2019 order stated that “[t]he Government now represents that it has concluded the aspects of its investigation that justified the continued sealing of the portions of the Materials relating to Cohen’s campaign finance violations,” and Defendant respectfully refers the Court to Judge Pauley’s order for a complete and accurate statement of its contents. Defendant admits that in a letter dated July 15, 2019, filed on the public

record, the U.S. Attorney's Office for the Southern District of New York stated that "[t]he Government has effectively concluded its investigations of (1) who, besides Michael Cohen, was involved in and may be criminally liable for the two campaign finance violations to which Cohen pled guilty . . . and (2) whether certain individuals . . . made false statements, gave false testimony or otherwise obstructed justice in connection with this investigation," and Defendant respectfully refers the Court to the July 15, 2019 letter for a complete and accurate statement of its contents.

15. Defendant admits that Judge Pauley's July 17, 2019 order contains the statements quoted in this paragraph, and Defendant respectfully refers the Court to the July 17, 2019 order for a complete and accurate statement of its contents.

16. Defendant admits that the news articles cited in this paragraph discussed Judge Pauley's July 17, 2019 order, as well as the Government's July 15, 2019 letter. Defendant respectfully refers the Court to the news articles cited in this paragraph for a complete and accurate statement of their contents.

17. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which an answer is required.

18. Defendant admits that CREW sent a FOIA request to EOUSA on July 18, 2019 and respectfully refers the Court to that request for a complete and accurate statement of its contents.

19. Defendant admits that in its July 18, 2019 FOIA request to the EOUSA, CREW sought a waiver of fees. Defendant respectfully refers the Court to the request for a complete and accurate statement of its contents.

20. Defendant admits that CREW submitted a request to DOJ's Office of Public Affairs requesting that CREW's FOIA request be expedited. Defendant respectfully directs the Court to

the request for a complete and accurate statement of its contents. The last sentence of this paragraph consists of legal conclusions to which no response is required.

21. Defendant admits that CREW relied on Judge Pauley's July 17, 2019 order to support its request for expedition. Defendant respectfully refers the Court to CREW's expedition request for a complete and accurate statement of its contents. The phrase "fully realized" in the last sentence of this paragraph is vague and the sentence is therefore denied.

22. Admitted. Defendant further avers that EOUSA asserted "unusual circumstances" in its response to CREW, extending the FOIA time limits by ten days.

23. Admitted.

24. Defendant admits that CREW sent a FOIA request to OIP on July 18, 2019 and respectfully refers the Court to that request for a complete and accurate statement of its contents.

25. Defendant admits that in its July 18, 2019 FOIA request to OIP, CREW sought a waiver of fees. Defendant respectfully refers the Court to the request for a complete and accurate statement of its contents.

26. Admitted.

27. Defendant admits that on July 26, 2019, OIP informed CREW that the Director of Public Affairs had denied CREW's request for expedition, and that the letter stated that "[t]he Director has determined that your request for expedited processing should be denied." Defendant respectfully refers the Court to the July 26, 2019 letter for a complete and accurate statement of its contents. Defendant further avers that OIP's July 26, 2019 letter asserted "unusual circumstances," extending the FOIA time limits by ten days.

28. Defendant admits the allegations contained in the first sentence of this paragraph, and respectfully refers the Court to OIP's July 26, 2019 letter for a complete and accurate statement

of its contents. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

29. Admitted that OIP has not issued a final determination or produced any records in response to CREW's FOIA request.

30. Defendant admits that CREW sent a FOIA request to DOJ's Criminal Division by email, not by facsimile, on July 18, 2019 and respectfully refers the Court to that request for a complete and accurate statement of its contents.

31. Defendant admits that in its July 18, 2019 FOIA request to the Criminal Division, CREW sought a waiver of fees. Defendant respectfully refers the Court to the request for a complete and accurate statement of its contents.

32. Admitted.

33. Denied. Defendant avers that the Criminal Division sent a letter dated August 1, 2019 to CREW via email, acknowledging receipt of the FOIA request. Defendant further avers that this letter asserted "unusual circumstances," extending the FOIA time limits by ten days. The letter also informed CREW that its request for expedited processing had been denied. Defendant respectfully refers the Court to the August 1, 2019 letter for a complete and accurate statement of its contents.

34. Defendant admits that CREW sent a FOIA request to the FBI on July 18, 2019 and respectfully refers the Court to that request for a complete and accurate statement of its contents.

35. Defendant admits that in its July 18, 2019 FOIA request to the FBI, CREW sought a waiver of fees. Defendant respectfully refers the Court to the request for a complete and accurate statement of its contents.

36. Admitted.

37. Admitted.

38. Defendant admits that the FBI has provided no additional response to CREW after its August 1, 2019 letter.

39. Defendant reasserts its responses to paragraphs 1-38 as if fully stated herein.

40. This paragraph consists of legal conclusions to which no response is required.

41. This paragraph consists of legal conclusions to which no response is required.

42. This paragraph consists of legal conclusions to which no response is required.

43. This paragraph sets forth Plaintiff's requested relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief that it seeks or to any other relief in this action.

44. Defendant reasserts its responses to paragraphs 1-43 as if fully stated herein.

45. This paragraph consists of legal conclusions to which no response is required.

46. This paragraph consists of legal conclusions to which no response is required.

47. This paragraph consists of legal conclusions to which no response is required.

48. This paragraph sets forth Plaintiff's requested relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief that it seeks or to any other relief in this action.

The remainder of the Amended Complaint sets forth Plaintiff's requested relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief that it seeks or to any other relief in this action.

Defendant further denies all allegations in Plaintiff's Amended Complaint not expressly admitted or denied.

**AFFIRMATIVE DEFENSES**

1. Some or all of the requested documents and information are exempt from disclosure under FOIA. *See* 5 U.S.C. § 552(b).
2. Plaintiff failed to exhaust administrative remedies.

DATED: September 13, 2019

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

MARCIA BERMAN  
Assistant Branch Director

*/s/ Joshua C. Abbuhl*  
JOSHUA C. ABBUHL (D.C. Bar No. 1044782)  
Trial Attorney  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, N.W., Room 11318  
Washington, D.C. 20005  
Telephone: (202) 616-8366  
Facsimile: (202) 616-8470  
joshua.abbuhl@usdoj.gov

*Counsel for the Defendant*