



requests records from federal agencies, analyzes the responses it receives, and disseminates its findings to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of Health and Human Services is an agency of the U.S. Government and is headquartered at 200 Independence Avenue, S.W., Washington, DC 20201. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On September 15, 2020, Plaintiff sent a FOIA request to the Center for Disease Control, a component of Defendant U.S. Department of Health and Human Services, seeking access to:

Any and all records of communication between CDC officials and/or employees and employees, agents, and/or representatives of Google, Facebook, Twitter, Instagram, LinkedIn, and YouTube concerning, regarding, or relating to COVID-19 related content on company platforms. Such records include, but are not limited to, any advice or instructions issued on disinformation re COVID-19.

6. The CDC acknowledged receipt of the request on September 16, 2020 and advised Plaintiff that the request had been assigned tracking number 20-02349-FOIA. The CDC also invoked FOIA’s 10-day extension of time provision for “unusual circumstances.”

7. As of the date of this Complaint, the CDC has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

**COUNT I**  
**(Violation of FOIA, 5 U.S.C. § 552)**

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

9. Defendant is in violation of FOIA.

10. 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 the law.

11. Plaintiff has no adequate remedy at law.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by October 29, 2020, at the latest. Because Defendant failed to make a final determination on Plaintiff's request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search 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 responsive 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: March 9, 2021

Respectfully submitted,

*/s/ Michael Bekesha*

Michael Bekesha (D.C. Bar No. 995749)

JUDICIAL WATCH, INC.

425 Third Street, S.W., Suite 800

Washington, DC 20024

Tel: (202) 646-5172

Email: mbekesha@judicialwatch.org

*Counsel for Plaintiff*