

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

BRADLEY FOERSTER )

Plaintiff, )

v. )

DEPARTMENT OF HEALTH AND HUMAN )  
SERVICES, )

Defendant. )  
\_\_\_\_\_ )

Case: 1:21-cv-01433

Assigned To : Friedrich, Dabney L.

Assign. Date : 5/24/2021

Description: FOIA/Privacy Act (I-DECK)

**INTRODUCTION**

1. This is an action under the Freedom of Information Act (“FOIA”) seeking the release of agency records relating to the HHS-OIG investigation of NIH R01 Grant NS082304. Upon information and belief, these records implicate other parties in illegal activities up to and including impersonation of a federal officer.
2. NIH R01 Grant NS082304 was a 3+ million dollar grant funded by the NIH in 2014 and granted to the Regents of the University of Michigan (UM). The grant was the largest imaging trial for amyotrophic lateral sclerosis (ALS). The Co-Principal Investigators were Dr. Bradley Foerster, MD, PhD and Dr. Robert Welsh, PhD. Professor Eva Feldman, a world renowned neurologist, was a funded Co-Investigator on the grant. Dr. Myria Petrou, MA MBChB MS, was a non-funded Co-Investigator. Ms. Duaa Altaee was hired as the research coordinator under the grant after unanimous decision by the investigators on the grant.
3. In 2015, upon Dr. Feldman’s recommendation, Ms. Altaee and Dr. Foerster reported Dr. Welsh to the Office of Institutional Equity (OIE), the UM Title IX office, for sexual

misconduct/retaliation. In addition, Ms. Altaee reported the UM Department of Radiology for retaliation/lack of due process.

4. After a year, UM OIE released to Dr. Foerster the results of the investigation into his complaint stating that there was insufficient evidence to establish a claim of retaliation. The investigation was a sham as among other issues it excluded 13/17 of Dr. Foerster's pieces of evidence (including an email demonstrating that Dr. Welsh was trying to secretly obtain a key to Ms. Altaee's office). UM OIE refused Dr. Foerster an appeal.
5. UM OIE never released a copy of Ms. Altaee's report to her. Instead, Ms. Altaee was terminated by UM in December 2017 while on medical leave for post-traumatic stress disorder (PTSD) resulting from the harassment and retaliation as documented by her physician.
6. In 2018, UM released Ms. Altaee's OIE sham investigation which among other things excluded her 10+ pieces of evidence, designated Ms. Altaee as "reportee" (when there is no designation of "reportee" under Title IX), and used a weather forecast rather than the actual weather report to label and brand Ms. Altaee as a "liar."
7. The retaliation by Dr. Welsh hindered and obstructed the execution of the NIH R01 grant; in spite of this, Dr. Foerster and Ms. Altaee in 2015-2017 were able to enroll nearly 100 research subjects.
8. In June 2016, Dr. Welsh abruptly left UM for a faculty position at University of Utah without explanation. Subsequently, UM repeatedly pressured Dr. Foerster to execute a subcontract for Dr. Welsh. Dr. Foerster deferred.
9. For the 2015, 2016, and 2017 annual NIH reports as well as the final 2018 close-out NIH report, Dr. Welsh documented no data analysis (and no work during 2018) despite it being

a requirement of the contract. Dr. Foerster documented his efforts for clinical recruitment, phenotyping and his data analysis as delineated under the NIH Multi-PI agreement.

10. On July 15, 2017, Dr. Petrou informed the OIG “I have been a coinvestigator on NIH Grant R01 NS082304 at the University of Michigan. One of the investigators (Robert Welsh, PhD) has not fulfilled their contractual obligations with the NIH and has not performed data analysis for 3+ years despite salary support for him and his assistants from the grant.”
11. During Fall, 2017, Dr. Petrou received phone calls from a “Tyson Howard” stating that he was an OIG agent investigating NIH R01 Grant NS028304.
12. On March 2, 2018 on a Friday afternoon, Dr. Petrou and Dr. Foerster met with Special Agent Tyson Howard and FBI Special Agent Sue Lucas at the Ann Arbor FBI office. Dr. Petrou and Dr. Foerster were escorted from downstairs in the federal building up to the FBI office and ushered into a small interview room through the back door.
13. Agent Howard never showed Dr. Foerster or Dr. Petrou his federal badge; instead he handed them his business card. Agent Howard and Agent Lucas asked only cursory questions regarding the NIH R01 grant. Both agents asked numerous questions regarding Dr. Foerster’s and Dr. Petrou’s relationship with Ms. Altaee stating that it was “abnormal.” Both agents asked bizarre questions about a character “Shonda” who neither Dr. Foerster or Dr. Petrou had any knowledge of. The agents informed Drs. Foerster and Petrou that the FBI would not investigate their police corruption concerns regarding the Ann Arbor Police stating that the civil federal RICO case recently filed by Drs. Foerster and Petrou and their attorney Cyril Hall precluded an FBI investigation. When Dr. Foerster asked if the FBI would investigate a murder if there was a civil wrongful death suit, Agent Howard became irate and started pounding on the table.

14. In Spring 2019, Drs. Foerster and Petrou discovered that the HHS-OIG had no employment record of a “Tyson Howard.” (**Exhibit A**) Dr. Foerster asked University of Michigan to investigate as it had vetted Agent Howard to question Paul Cronin (herein after “Cronin”) who was employed as a radiologist at the University of Michigan since 2002 and a colleague of Drs. Foerster and Petrou. UM was using the HHS-OIG investigation against Dr. Foerster’s employment claiming that Dr. Foerster was making unsubstantiated claims against Dr. Welsh. UM refused to investigate the identity of “Tyson Howard.” Dr. Foerster also followed up with FBI Special Agent Sue Lucas regarding “Tyson Howard’s” status but never received a reply. To date, the FBI and OIG are refusing to release a report of the March 2, 2018 interview.
15. Shortly after the March 2, 2018 interview, Paul Cronin was interviewed by Agents Howard and Lucas in the Department of Radiology at UM. Following, Cronin informed Dr. Foerster, Dr. Petrou and Ms. Altaee that he had lied to Agents Lucas and Howard.
16. In July 2018, Ms. Altaee was interviewed by Agents Howard and Lucas after they showed up unannounced at her residence in Washington, D.C. Ms. Altaee’s physical description of Agent Howard did not match Dr. Foerster’s or Dr. Petrou’s.
17. Starting in August 2016, Paul Cronin, informed Dr. Foerster and Ms. Altaee that he was not trained as a physician despite being employed as a radiologist at UM. Cronin provided extensive detail of a Russian scheme to subvert the 2016 U.S. Presidential Election as well as a money laundering operation in the State of Michigan (**Exhibit B**). According to Cronin, Cronin did not disclose the election scheme or money laundering operation to Agents Lucas and Howard. Cronin also informed Drs. Foerster and Petrou of a fraudulent billing scheme at the University of Michigan using EPIC.

18. Immediately following disclosure of Cronin's "sensitive" information, Dr. Foerster, Dr. Petrou and Ms. Altaee found themselves victims of numerous false witnesses which were used by the Ann Arbor Police Department (AAPD) and the University of Michigan to target them.
19. Among other things, Drs. Foerster and Petrou have been falsely accused and under investigation by AAPD of "embezzling" Dr. Petrou's parents funds (despite a broad durable power of attorney under which there can be no embezzlement), "extortion" of Paul Cronin, stealing two orange cats, and cyber-bullying of Ms. Altaee's former husband for simply asking for their belongings back. The false witnesses included "Nick" who was an unidentified character who claimed to be Cronin's colleague at UM. "Nick" led the extortion allegation of Cronin. In 2020, Drs. Foerster and Petrou learned that Dr. Nicholas Reeser (who was a radiology fellow under Cronin at the time) appeared to be a voice match for "Nick." UM ran a sham investigation into the identity of "Nick." Although Cronin denied any knowledge of "Nick" as well as any extortion by Drs. Foerster or Petrou at the time under oath in a deposition, Cronin will now not reply as to whether he recognizes "Nick's" voice (obtained through "Nick's" recordings which the AAPD used to continue its investigation after Dr. Petrou's parents dropped their allegations).
20. During the numerous criminal investigations for civil matters as ultimately determined by the Washtenaw County Prosecutor, the AAPD executed seven search warrants against Drs. Foerster and Petrou which froze their bank accounts ultimately resulting in the loss of their house and all of their assets. To date, the AAPD/City of Ann Arbor has not established a probable cause file for the search warrants despite a court order to do so and in spite of

Michigan Attorney General Dana Nessel informing Drs. Foerster and Petrou that such a file should exist.

21. At the time that Cronin made his statements in 2016 and 2017 regarding the Russians and the money laundering, Drs. Foerster and Petrou did not know what to make of them as they sounded outlandish.
22. On August 2, 2017, Dr. Foerster called Cronin. After several minutes of conversation, Dr. Foerster asked Cronin if Cronin was impersonating a federal officer. Cronin denied impersonating a federal officer but then abruptly hung up and would not answer follow-up phone calls or texts from Dr. Foerster. More recently, Dr. Petrou received information that Paul Cronin has been using a law enforcement (federal?) badge to intimidate and manipulate parties against Drs. Foerster and Petrou. Given the seriousness of this, Dr. Foerster made appropriate inquiries. To date, the FBI has refused to confirm or deny if Paul Cronin is or was a federal officer/agent.
23. On January 31, 2018, Drs. Foerster and Petrou wrote Special Counsel Mueller regarding Cronin's statements regarding the Russian scheme to subvert the 2016 U.S. Presidential Election (**Exhibit C**). Mr. Mueller never replied.
24. On February 5, 2018, Drs. Foerster and Petrou reported the statements of Cronin including the Russian meddling in the 2016 U.S. Presidential Election to Special Agent Bobbi of the Detroit FBI Field Office. Drs. Foerster and Petrou were very clear that they were just reporting what Cronin had told them and that they were still at a loss as what to make of the entire scene but given that enough bizarre things had taken place they felt it was appropriate to report this to the FBI. FBI Special Agent Bobbi concurred.

25. In April 2018, again Drs. Foerster and Petrou suggested to Cronin that it may be time for him to come forward and give information to law enforcement regarding what he knew about the Russian interference in the 2016 elections and the Russian money laundering scheme he had described months earlier. Cronin had previously promised to provide testimony to the appropriate authorities when the time was right. Cronin refused to come forward and provide testimony and specifically said that if he did that "his life would be ruined."
26. On May 18, 2018, Drs. Foerster and Petrou wrote Deputy Attorney General Rosenstein and Special Counsel Mueller regarding Cronin's statements regarding the Russian scheme to subvert the 2016 U.S. Presidential Election (**Exhibit D**). Neither Mr. Rosenstein nor Mr. Mueller replied.
27. After obtaining a copy of the Mueller/Rosenstein letters, the Ann Arbor Observer published four defamatory articles against Drs. Foerster and Petrou among other things ridiculing Drs. Foerster and Petrou for writing the letters to Mr. Rosenstein and Mr. Mueller. Following, the Ann Arbor Observer has refused to retract the defamatory articles or publish a new article based on new documentary evidence proving that the Observer's articles/statements are inaccurate. The Ann Arbor Observer was unable to explain to a federal judge how the current online articles serve the public interest.
28. In Summer 2018, Dr. Foerster returned from approved medical leave for two back surgeries/fusion only to have a psychiatric sting operation conducted against him at UM. Dr. Foerster passed the psychiatric interviews and the drug test. Following, UM obfuscated and delayed the release of Dr. Foerster's medical records which did not document any concerns of mental instability. In addition, UM has repeatedly denied FOIA

- requests from Drs. Foerster and Petrou involving documents including but not limited to secret investigations instigated by false witnesses (e.g. “Nick”, Sara Abraham), medical licensure/credentialing involving Paul Cronin and his wife Aine Kelly (also employed as a radiologist at UM), and marriage documents/certificates.
29. UM, after a litigated FOIA appeal, admitted that it had no medical school transcripts on file for Aine Kelly. UM had previously documented that it had no medical school transcripts on file for Paul Cronin, despite all prior academic transcripts being a requirement for UM graduate school with Cronin having received on Master’s degree and Aine Kelly receiving two Master’s degrees from UM.
  30. On November 17, 2018, Dr. Foerster wrote the University of Michigan and asked UM to facilitate the release of the Cronin recordings that were in Ms. Altaee’s possession given the national security implications and the concerns of personal safety for the witnesses as well as the young children (**Exhibit E**). Ms. Altaee recorded a number Cronin conversations in 2016-2017 as the scene seemed too bizarre. Dr. Petrou asked Ms. Altaee to keep the recordings as Dr. Petrou was concerned that the recordings were too inflammatory and she did not want them in Dr. Petrou’s or Dr. Foerster’s possession or anywhere close to their children. Ms. Altaee said that she would keep the recordings and ensure the recordings were safely stored in case they were ever needed.
  31. University of Michigan ignored Dr. Foerster’s request and instead prosecuted a sham University 5.09 “investigation” against Dr. Foerster including claiming that Dr. Foerster was making false allegations regarding the NIH Grant NS82304 as well as being the source of the EPIC allegations (when the information originated from Cronin). This is spite of documentary evidence that Dr. Welsh had not performed any data analysis and had used



over \$100K in NIH funds (**Exhibit F, Exhibit G**). In particular, the University violated its own ByLaws by spending over \$200K on an outside attorney to prosecute the 5.09 proceedings even though the ByLaws prohibited use of an outside attorney (UM amended its ByLaws following conclusion of the proceedings). UM falsely accused Dr. Foerster of sending out mass emails all the while refusing to release the IP addresses of the mass emails which were obtained only after the proceedings were concluded (and Dr. Foerster resigned in good standing due to a hostile work environment). The reluctantly released IP addresses proved that Dr. Foerster did not send the mass emails. Through a UM FOIA release, Dr. Foerster discovered that it was Dr. Welsh's attorney who disseminated the mass emails falsely attributed to Dr. Foerster. UM also brought out and weaponized the above described suppressed sham OIE investigation of Ms. Altaee against Dr. Foerster.

32. Recently, Ms. Altaee received another death threat by a man with a Eastern European accent. The first death threat was in January 2018 around the time that Drs. Foerster and Petrou wrote Special Counsel Mueller. The UM police mis-documented the facts of the January 2018 death threat and closed the case just after an hour of receiving the complaint. Ms. Altaee is currently in Dubai staying with her sister.
33. Based on everything that had occurred, including UM weaponizing the HHS-OIG investigation against Dr. Foerster, HHS-OIG having no record of "Tyson Howard" as well as the possibility that Cronin participated in the HHS-OIG investigation under the guise of a federal officer, Dr. Foerster made a routine request for the final HHS-OIG report of NIH R01 NS082304. University of Michigan has repeatedly denied having a copy of the final report. Dr. Petrou did receive a memo dated August 21, 2019 that documenting,

“Discussions with the Office of the United States Attorney resulted in a declination of the criminal prosecution. The criminal case is therefore closed.” (Exhibit H)

### **JURISDICTION AND VENUE**

34. The Plaintiff hereby incorporates the preceding paragraphs as if fully restated herein.
35. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 552(a)(4)(vii) and 28 § U.S.C. 1331.
36. Venue is proper in this district as Defendant’s principal place of business in in Washington, D.C.

### **PARTIES**

37. The Plaintiff hereby incorporates the preceding paragraphs as if fully restated herein.
38. Plaintiff Dr. Bradley Foerster is a board certified radiologist (for over 10 years) who prior to resigning in good standing from the University of Michigan in June, 2019 had been promoted to Associate Professor of Radiology with tenure on September, 2016 due to his national academic reputation for his scholarly efforts for ALS and chronic pain. Dr. Foerster has secured over 4 million dollars in extramural funding and published over 40 reviewed articles and 40 scientific presentations. Dr. Foerster obtained his doctorate from the Johns Hopkins University Bloomberg School of Public Health, the thesis of which provided the backbone for the NIH R01 grant described here. Dr. Foerster has no patient complaints, malpractice claims, or criminal history. Dr. Foerster grew up in Caro located in the thumb of Michigan, the son of a Lutheran minister. Dr. Foerster is married to Dr. Myria Petrou from Cyprus and has a son, age 12, and a daughter, age 13.
39. Defendant U.S. Department of Health and Human Services (“HHS”) is a Department of the Executive Branch of the United States government. HHS is an agency within the meaning of 5 U.S.C. § 552(f)(1).

The FOIA Request and HHS's Response/Non-Response

40. The Plaintiff hereby incorporates the preceding paragraphs as if fully restated herein.

41. On June 3, 2020, Dr. Foerster submitted a FOIA request to the HHS for the following records:

Dear HHS-OIG;

Under FOIA, I am requesting the final report for the HHS-OIG investigation of NIH R01 Grant NS082304, complaint initiated by Dr. Myria Petrou (attached), from 7/1/17 to present. The grant was under the University of Michigan.

Please use this email address for any and all communications including release of information.

Thank you,

Bradley Foerster (**Exhibit I**).

42. As above, the June 3, 2020 FOIA request was in the context the University of Michigan weaponizing the OIG-HHS investigation against Dr. Foerster's employment as well as HHS-OIG Special Agent Tyson Howard who interviewed Dr. Foerster regarding the grant with the HHS later confirming that it has no record of Tyson Howard.

43. On June 10, 2020, HHS-OIG responded denying Dr. Foerster's appeal stating that "I can neither confirm or deny the existence of records which would be responsive to your request." (**Exhibit J**).

44. On June 12, 2020, Dr. Foerster appealed the HHS-OIG FOIA denial. In Dr. Foerster's appeal, Dr. Foerster expressly challenged the statement "being unable to confirm or deny" existence of public records is against the law. Further, Dr. Foerster challenged the specific exemptions claimed by HHS-OIG as well documented that HHS-OIG has no record of Special Agent "Tyson Howard" and attached the business card provided by "Tyson Howard" (**Exhibit K**).

45. Despite 20 days passing, Dr. Foerster received no reply from the HHS-OIG.
46. On July 24, 2020, Dr. Foerster followed up documenting that HHS-OIG missed the 20 day appeal deadline (**Exhibit L**).
47. Dr. Foerster received no reply from the HHS-OIG regarding his July 24, 2020 follow-up.
48. On July 29, 2020, Dr. Foerster again followed up documenting that HHS-OIG missed the 20 day appeal deadline (**Exhibit L**).
49. Dr. Foerster received no reply from the HHS-OIG regarding his July 29, 2020 follow-up.
50. On August 5, 2020, Dr. Foerster followed up again documenting that HHS-OIG missed the 20 day appeal deadline (**Exhibit L**).
51. Dr. Foerster received no reply from the HHS-OIG regarding his August 5, 2020 follow-up.
52. On May 17, 2021, Dr. Foerster informed the HHS that he would be forced to litigate an appeal unless he received the requested records in 10 days (**Exhibit M**).
53. On May 20, 2021, the HHS responded informing Dr. Foerster that the appeal was pending (**Exhibit N**).
54. HHS could not clarify why the appeal reply was unlawfully delayed, what the unusual circumstances were for the delay, or any steps that could be taken to expedite the release of the requested NIH grant investigation (**Exhibit N**).
55. As such, HHS has failed to comply with time limits imposed by the FOIA statute and applicable HHS regulations.
56. Under the FOIA statute, an agency must determine an appeal with 20 days (excluding weekends and legal holidays) after receiving it. 5 U.S.C. § 522(a)(6)(A)(ii).
57. Under HHS regulations, it must decide an appeal without 20 working days after the appeal reaches the appropriate review official. 45 C.F.R. § 5.35(b)(2).

58. If HHS fails to “meet the deadline[], [the requester] may proceed as if [it] had denied . . . [the] appeal. *Id.* § 5.35(a)
59. Dr. Foerster has therefore instituted this action to ask the Court to order HHS to disclose the requested documents.

#### **CAUSES OF ACTION**

60. Dr. Foerster hereby incorporates the preceding paragraphs as if fully restated herein.
61. Defendant’s failure to timely respond to Dr. Foerster’s appeal violates the FOIA, 5 U.S.C. § 522(a)(6)(A)(ii), and HHS’s corresponding regulation, 45 C.F.R. § 5.35(b)(2).
62. Defendant’s failure to make a reasonable effort to search for records responsive to Dr. Foerster’s request violated the FOIA, 5 U.S.C. 552(a)(3)(C), and HHS’s corresponding regulation, 45 C.F.R. § 5.24.
63. Defendant’s wrongful withholding of non-exempt responsive materials violates the FOIA, 5 U.S.C. § 552(a)(3)(A) and HHS’s corresponding regulation, 45 § C.F.R. 5.2.

#### **REQUESTED RELIEF**

WHEREFORE, Plaintiff Prays that this Court:

1. Order Defendant to immediately process all requested records;
2. Order Defendant to conduct a thorough search for all responsive records;
3. Order Defendant to promptly disclose the requested records in their entirety and make copies available to Plaintiff;
4. Enjoin Defendant from charging Plaintiff fees for the processing of this request;
5. Award Plaintiff its costs incurred in this action under 5 U.S.C. § 522(a)(4)(E);
6. Given the intersection of Paul Cronin, Special Agent “Tyson Howard”, and the death threats, that the Court conducts a hearing in which Duaa Altaee can safely produce the

recordings of Paul Cronin describing the U.S. Presidential Election interference and the money laundering operation;

7. Given the potential implications for national security, that the Court orders protection of the relevant witnesses including Plaintiff, Plaintiff's family, Duaa Altaee and Paul Cronin by the U.S. Federal Marshalls until these matters can be addressed and adjudicated;
8. Grant such other relief as the Court may deem just and proper.

Respectively submitted,

Dated: May 21, 2021



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