

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

WHITE ARNOLD & DOWD P.C.)

Plaintiff,)

v.)

CIVIL ACTION NO.:

DEPARTMENT OF JUSTICE,)

OFFICE OF PROFESSIONAL)

RESPONSIBILITY,)

Defendant.)

COMPLAINT

Nature of the Action

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, for injunctive relief, attorney’s fees and other appropriate relief, seeking the disclosure and release of agency records that have been improperly withheld from White Arnold & Dowd P.C. (“WAD” or “Plaintiff”) by the Department of Justice, Office of Professional Responsibility (“OPR” or “Defendant”).

Jurisdiction and Venue

2. This court has jurisdiction over this action under both 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Venue is proper in the district under 5 U.S.C. § 552(a)(4)(B).

3. WAD is a professional corporation with its headquarters and principal place of business in Birmingham, Alabama.

4. The Office of Professional Responsibility (OPR) is part of the United States Department of Justice (DOJ) responsible for investigating attorneys accused of misconduct while acting within the line and scope of their duties as a DOJ employee.

5. The DOJ is responsible for criminal prosecutions and civil suits in which the United States has an interest.

6. The DOJ, and the OPR within it, fall within the meaning of “agency” contained in 5 U.S.C. § 552(f).

Factual Allegations

7. On January 8, 2015, WAD submitted a Freedom of Information Act (FOIA) request to the OPR seeking information regarding a former Department attorney. The Request was assigned the following FOIA number: F15-00022 (the “Request”).

8. The next day, on January 9, 2015, WAD received a boilerplate acknowledgement from OPR, summarily denying the Request. A true and correct copy of the letter denying the Request is attached as Exhibit 1.

9. In that same letter, the OPR notified WAD of its right to appeal the OPR’s adverse determination.

10. Within the prescribed period, WAD timely submitted an appeal pursuant to the instructions contained in the adverse determination letter. True and correct copies of the appeal and proof of mailing are attached collectively as Exhibit 2.

8. More than twenty (20) working days have elapsed since WAD submitted the appeal.

9. To date, the OPR has yet to notify WAD if the appeal of the denial of the request for records is in whole or in part upheld. The OPR similarly has not notified WAD of the provisions for judicial review of any such determination.

WAD is Entitled to Relief Based on
the OPR's Improper Withholding of Agency Records

10. The OPR wrongfully withheld agency records responsive to WAD's January 8, 2015 FOIA Request.

11. The OPR failed to notify WAD whether its appeal of the denial of the request for records was upheld in whole or in part, and similarly failed to notify WAD of its rights to pursue judicial review.

12. The OPR failed to comply with the applicable time limits required under FOIA, 5 U.S.C. § 552(a)(6).

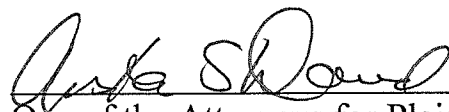
12. WAD has constructively exhausted all available remedies under FOIA, 5 U.S.C. § 552(a)(6)(C).

REQUESTED RELIEF

WHEREFORE, Plaintiff requests that this Court:

- A. Issue an injunction ordering OPR to disclose the requested documents and records pursuant to WAD's March 10, 2015 Requests;
- B. Provide for the expeditious processing of this action;
- C. Award Plaintiff its costs and attorney's fees incurred in this action;
- D. Order such other relief as the Court may deem just and proper.

Respectfully submitted this the 20th day of May, 2015.



One of the Attorneys for Plaintiff,
White Arnold & Dowd P.C.

OF COUNSEL:

Augusta S. Dowd
J. Mark White
Linda G. Flippo
Rebecca DePalma
Kelly Brennan Bolvig
White Arnold & Dowd P.C.
2025 Third Avenue North, Suite 500
Birmingham, Alabama 35203
Telephone: (205)-323-1888
Facsimile: (205)-323-8907

**PLEASE SERVE DEFENDANTS VIA CERTIFIED MAIL AT THE
FOLLOWING ADDRESS:**

U.S. Attorney's Office for the Northern District of Alabama
Civil Process Clerk
1804 4th Avenue North
Birmingham, Alabama 35203

U.S. Department of Justice
Office of the Attorney General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Robin C. Ashton
Counsel
Office of Professional Responsibility
950 Pennsylvania Avenue, N.W., Suite 3266
Washington, D.C. 20530-0001