

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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DANIEL M. LADER,	:	
c/o DiRUZZO & CO., 401 East Las Olas Blvd.	:	Case No.: 1:22-cv-77
Suite 1400, Ft. Lauderdale, FL 33301,	:	
Plaintiff,	:	
	:	
v.	:	
	:	
UNITED STATES TREASURY DEPARTMENT,	:	
1500 Pennsylvania Avenue, NW,	:	
Washington, D.C. 20220,	:	
Defendant.	:	
-----x		

**COMPLAINT**

1. Plaintiff, DANIEL M. LADER, by and through undersigned counsel, brings this complaint pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et. seq., for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff by the Defendant, the UNITED STATES TREASURY DEPARTMENT.

**JURISDICTION & VENUE**

- 2. This action arises under the FOIA, 5 U.S.C. § 552.
- 3. This Court has jurisdiction over the parties and subject matter pursuant to 5 U.S.C. § 552(a)(4)(B).
- 4. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

**PARTIES**

- 5. Plaintiff is a United States citizen and Florida resident, and is the requester of records that have been improperly withheld.
- 6. The Defendant, UNITED STATES TREASURY DEPARTMENT is a Department of the Executive Branch of the United States Government. Defendant has its headquarters in Washington,

D.C., within this judicial district. The UNITED STATES TREASURY DEPARTMENT has various bureaus including the Internal Revenue Service. The IRS is an “agency” within the meaning of 5 U.S.C. § 552(f). Upon information and belief, the IRS has possession and control of the records requested by the Plaintiff.

### FACTS

7. On June 17, 2021, Plaintiff made his FOIA request via the FOIA online portal, *available at* <https://www.foia.gov/?id=2f6bdfbe-aa71-4dd6-ac88-3d6587fafa83&type=component#agency-search>.

Upon information and belief, the Defendant is in possession of the original request as submitted.

8. The FOIA request sought: “the comments received and transcripts of the public hearings with respect to 26 C.F.R. s 1.162 et seq., original notice of proposed rulemaking published in 21 F. R. 5091, dated July 10, 1956. adopted in T.D. 6291, 23 FR 2244, and subsequent amendments including the following: T.D. 6500, 25 FR 11402, Nov. 26, 1960; T.D. 6690, 28 FR 12253, Nov. 19, 1963; T.D. 6996, 34 FR 835, Jan. 18, 1969; T.D. 7315, 39 FR 20203, June 7, 1974; T.D. 7345, 40 FR 7437, Feb. 20, 1975; T.D. 8189, 53 FR 9881, March 28, 1988; T.D. 8491, 58 FR 53128, Oct. 14, 1993.”

9. On July 13, 2021, the Defendant acknowledged receipt of the FOIA request. A copy of the July 13<sup>th</sup> correspondence is attached as Exhibit 1.

10. On August 18, 2021, the Defendant sent correspondence seeking “additional time to obtain and review the records as the Federal Records Centers are limited in their staffing due to the COVID-19 virus.” A copy of the August 18<sup>th</sup> correspondence is attached as Exhibit 2.

11. On October 21, 2021, the Defendant sent correspondence seeking “additional time to obtain and review the records as the Federal Records Centers are limited in their staffing due to the COVID-19 virus.” A copy of the October 21<sup>st</sup> correspondence is attached as Exhibit 3.

12. On November 29, 2021, the Defendant sent correspondence seeking “additional time to obtain and review the records as the Federal Records Centers are limited in their staffing due to the COVID-19 virus. I still need additional time to obtain and review the records, and I expect to complete your request by March 7, 2022.” A copy of the November 29<sup>th</sup> correspondence is attached as Exhibit 4.

13. In response to the November 29<sup>th</sup> correspondence, the undersigned called the contact person listed on the correspondence. The undersigned was informed that the IRS Procedure & Administration group had the Plaintiff’s FOIA request, but the contact person couldn’t/wouldn’t commit to a date that IRS P&A would process the FOIA request.

14. An agency must respond to a request for documents pursuant to 5 U.S.C. § 552(a)(6)(A)(i) within twenty (20) business days.

15. The Defendant has improperly withheld responsive records/documents from the Plaintiff.

**COUNT 1**  
**(violation of FOIA)**

16. This Count realleges and incorporates by reference all of the preceding paragraphs. All documents referenced in this Complaint are incorporated by reference as if set forth fully herein.

17. More than 20 business days have elapsed since Plaintiff submitted the FOIA request but as of the filing of this Complaint, Plaintiff has not received responsive documents from the Defendant and the Defendant has improperly withheld the requested documents from the Plaintiff.

18. Plaintiff is deemed to have exhausted his administrative remedies because the Defendant has not responded within the time period required by law.

19. The improper withholding of the requested documents has irreparably harmed the Plaintiff by preventing him from reviewing the documents in the Defendant's possession and by preventing the Plaintiff the ability to exercise a valuable statutory right conferred by Congress pursuant to the FOIA.

20. The actions of the Defendant, as stated above, are a violation of the FOIA, 5 U.S.C. § 552 et. seq., as amended.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully request that this Court:

- (1) Declare Defendant's failure to comply with FOIA to be unlawful;
- (2) Order Defendant to immediately process Plaintiff's FOIA request;
- (3) Grant Plaintiff an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E)(i); and
- (4) Grant Plaintiff such other and further relief which the Court deems proper.

Respectfully submitted,

/s/ Joseph A. DiRuzzo, III Digitally signed by /s/ Joseph A. DiRuzzo, III  
Date: 2022.01.12 13:53:50 -05'00'

Jan. 12, 2022

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