

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
SOPHIE NETTESHEIM,

Plaintiff,

-against-

UNITED STATES DEPARTMENT OF  
JUSTICE, including its Component the National  
Motor Vehicle Title Information System,

Defendants.  
-----X

**COMPLAINT**

**No.**

Plaintiff SOPHIE NETTESHEIM, by their attorney David B. Rankin of Beldock, Levine & Hoffman, LLP for their complaint, does hereby state and allege:

**PRELIMINARY STATEMENT**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, for declaratory, injunctive, and other appropriate relief to compel the release of agency records improperly withheld from Plaintiff Sophie Nettesheim (“Plaintiff” or “Nettesheim”) by Defendant United States Department of Justice (“DOJ”), specifically its component the National Motor Vehicle Title Information System (“NMVTIS”) in response to requests properly made by Plaintiff.

2. In response to a proper FOIA request submitted by Plaintiff seeking records containing a complete list of vehicle identification numbers (“VIN”) for commercial vehicles, Defendant NMVTIS materially and willfully violated FOIA.

3. FOIA requires that agencies (including DOJ and NMVTIS) make a determination with respect to requests within 20 working days. FOIA allows an extension of beyond 10 additional

days under unusual circumstances and with notification to the requester. Over 25 working days after the submission of Plaintiff's request, Defendant NMVTIS failed to produce not only the responsive records but any response at all.

4. Plaintiff seeks to compel disclosure of documents responsive to their request for a list of complete VINs for all commercial vehicles, and corresponding odometer readings.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction of the FOIA claim and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(b). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

6. Venue is proper as the records exist on databases within this district.

7. The NMVTIS has constructively denied Plaintiff's request. Plaintiff has exhausted all administrative remedies pursuant to 5 U.S.C. § 522(a)(6)(C).

### **PARTIES**

8. Sophie Nettesheim is a private individual and the requester of the records.

9. Defendant DOJ is a department of the executive branch of the U.S. government and an agency within the meaning of 5 U.S.C. §§ 551(1) & 552(f)(1). Defendant NMVTIS is a component of DOJ.

### **STATUTORY FRAMEWORK**

10. The Freedom of Information Act requires federal government agencies to release information upon proper request unless it is shown that disclosure is exempt pursuant to one of nine exemptions contained within the statute. 5 U.S.C. § 552(a), (b).

11. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), a federal agency shall make a determination in response to a FOIA request within 20 working days, shall immediately notify the requester of

the determination, and shall provide reasons for the agency's determination as well as instructions for appeal.

12. This Court may assess attorney fees and litigation costs against the United States if Plaintiff substantially prevails in this action. 5 U.S.C. § 552(a)(4)(E).

### **FACTUAL BACKGROUND**

13. By United States Postal Service, on November 24, 2021, Plaintiff submitted a FOIA request to the NMVTIS Program Office (the "Request"). A true and correct copy of the Request is attached to this Complaint as Exhibit 1 and is incorporated by reference herein.

14. Plaintiff's Request sought records containing "A list of complete vehicle identification numbers ("VINs") for all commercial vehicles, and corresponding odometer readings. . . . It would be strongly preferred to receive *only* the VINs and odometer readings of commercial trucks (commercial vehicles in FHWA classes 3-8) with active registrations. If the data is not sorted in such a manner, the complete set will suffice" (emphasis in original).

15. Plaintiff further noted that "[i]t is expected that this response will contain two columns of data (VIN and mileage) and can be stored and produced in a CSV, Excel or similar format."

16. Plaintiff did not receive a response to their inquiry within 20 days, as required by 5 U.S.C. § 552(a)(6)(A)(i).

17. As of the filing of this Complaint, Defendants have provided no response to Plaintiff's request.

18. The Defendants' failure to comply with the applicable time limit acts as a constructive denial of Plaintiff's request, pursuant to FOIA. 5 U.S.C. § 552(a)(6)(C)(i).

19. The agency's continuing constructive denial is without merit.

**CLAIM FOR RELIEF**

**Violation of FOIA for Failure to Comply with Statutory Deadlines**

20. Plaintiff repeats and re-alleges the forgoing paragraphs.
21. Defendant is an agency subject to FOIA. 5 U.S.C. § 552(f)(1).
22. By Plaintiff's request, Plaintiff properly sought records within the possession, custody and/or control of Defendant.
23. Defendant failed to make an initial determination with respect to Plaintiff's Request within the 20-working-day deadline required by FOIA 5 U.S.C. § 552(a)(6)(A).
24. Plaintiff has exhausted all applicable administrative remedies with respect to the Request.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Order Defendant to conduct a thorough search for all records responsive to Plaintiff's Request and demonstrate that it employed search methods reasonably calculated to uncover all records responsive to Plaintiff's Request;
- B. Issue a declaration that Plaintiff is entitled to disclosure of the records responsive to Plaintiff's Request;
- C. Order Defendant to disclose all non-exempt records responsive to Plaintiff's Request in its entirety, as well as all non-exempt portions of responsive records;
- D. Order defendant to promptly provide an index pursuant to *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), and its progeny, inventorying all responsive records and itemizing and justifying all withholdings of responsive documents;
- E. Enjoin Defendant from continuing to withhold any and all non-exempt records or portions thereof responsive to Plaintiff's Request;
- F. Immediately process all records responsive to the Request;
- G. Award plaintiff reasonable attorneys' fees and costs pursuant to incurred in this action; and 5 U.S.C. § 552(a)(4)(E);
- H. Grant such other relief as the Court may deem just and proper.

Dated: February 11, 2022  
New York, New York

Respectfully submitted,



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