

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:21-cv-07288-LJL**

Informed Consent Action Network v. National Institutes of Health

Assigned to: Judge Lewis J. Liman

Related Case: [1:21-cv-07331-LJL](#)

Cause: 05:552 Freedom of Information Act

Date Filed: 08/30/2021

Date Terminated: 04/22/2022

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

Informed Consent Action Network

represented by **Elizabeth Ann Brehm**

Siri & Glimstad LLP

200 Park Avenue

17th Floor

10166

New York, NY 10166

212-532-1091

Fax: 646-417-5967

Email: ebrehm@sirillp.com

ATTORNEY TO BE NOTICED

Gabrielle Palmer

Siri & Glimstad LLP

200 Park Avenue

17th Floor

New York, NY 10166

212-532-1091

Email: gpalmer@sirillp.com

ATTORNEY TO BE NOTICED

Aaron Siri

Siri & Glimstad LLP

200 Park Avenue

17th Floor

New York, NY 10166

212-532-1091

Fax: 646-417-5967

Email: aaron@sirillp.com

ATTORNEY TO BE NOTICED

V.

Defendant

National Institutes of Health

represented by **Anthony Jan-Huan Sun**

U.S. Attorney Office SDNY

86 Chambers Street

New York, NY 10007

212-637-2810

Fax: 212-637-2786

Email: anthony.sun@usdoj.gov

ATTORNEY TO BE NOTICED

David E. Farber

DOJ-USAO

86 Chambers Street

3rd Floor

New York, NY 10007

212-637-2772

Fax: 212-637-2702

Date Filed	#	Docket Text
08/30/2021	<u>1</u>	COMPLAINT against National Institutes of Health. (Filing Fee \$ 402.00, Receipt Number ANYSDC-25000125) Document filed by Informed Consent Action Network. (Attachments: # <u>1</u> Exhibit A.1, # <u>2</u> Exhibit A.2).(Siri, Aaron) (Entered: 08/30/2021)
08/30/2021	<u>2</u>	CIVIL COVER SHEET filed..(Siri, Aaron) (Entered: 08/30/2021)
08/30/2021	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Informed Consent Action Network..(Siri, Aaron) (Entered: 08/30/2021)
08/30/2021	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to National Institutes of Health, re: <u>1</u> Complaint. Document filed by Informed Consent Action Network..(Siri, Aaron) (Entered: 08/30/2021)
08/31/2021		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Lewis J. Liman. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions..(pc) (Entered: 08/31/2021)
08/31/2021		Magistrate Judge Kevin Nathaniel Fox is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (pc) (Entered: 08/31/2021)
08/31/2021		Case Designated ECF. (pc) (Entered: 08/31/2021)
08/31/2021	<u>5</u>	ELECTRONIC SUMMONS ISSUED as to National Institutes of Health..(pc) (Entered: 08/31/2021)
09/17/2021	<u>6</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: This case has been assigned to me for all purposes. It is hereby: ORDERED that counsel for all parties appear for an Initial Pretrial Conference by TELEPHONE on October 8, 2021, at 11:00 a.m. Parties are directed to dial into the Court's teleconference number at 888-251-2909, Access Code 2123101, and follow the necessary prompts. IT IS FURTHER ORDERED that, by one week prior to conference, the parties jointly submit to the Court a proposed Case Management Plan and Scheduling Order. A template is available at https://www.nysd.uscourts.gov/hon-lewis-j-liman . This document should be filed electronically on ECF, consistent with the Court's Individual Practices in Civil Cases, which are available on the same webpage. Parties should consult the Individual Practices for guidance on the matters to be discussed at the Initial Pretrial Conference and or the Court's rules with respect to communications with Chambers and other procedural matters. So Ordered. Initial Conference set for 10/8/2021 at 11:00 AM before Judge Lewis J. Liman. (Signed by Judge Lewis J. Liman on 9/17/2021) (js) (Entered: 09/17/2021)
09/27/2021	<u>7</u>	MOTION for Gabrielle G. Palmer to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-25117212. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Informed Consent Action Network. (Attachments: # <u>1</u> Affidavit Declaration in Support of Pro Hac Motion, # <u>2</u> Exhibit Certificate of Good Standing, # <u>3</u> Text of Proposed Order Proposed Order for Admission Pro Hac Vice).(Palmer, Gabrielle) (Entered: 09/27/2021)
09/28/2021		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>7</u> MOTION for Gabrielle G. Palmer to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC-25117212. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (wb) (Entered: 09/28/2021)

09/28/2021	8	ORDER granting <u>7</u> Motion for Gabrielle G. Palmer to Appear Pro Hac Vice (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (kc) Transmission to Attorney Services/Help Desk. (Entered: 09/28/2021)
10/01/2021	<u>9</u>	NOTICE OF APPEARANCE by Anthony Jan-Huan Sun on behalf of National Institutes of Health..(Sun, Anthony) (Entered: 10/01/2021)
10/01/2021	<u>10</u>	JOINT LETTER addressed to Judge Lewis J. Liman from AUSA Anthony J. Sun dated 10/1/2021 re: letter in advance of October 8 conference. Document filed by National Institutes of Health..(Sun, Anthony) (Entered: 10/01/2021)
10/01/2021	<u>11</u>	MEMO ENDORSEMENT on re: <u>10</u> Letter filed by National Institutes of Health. ENDORSEMENT: The request is approved. SO ORDERED. (Signed by Judge Lewis J. Liman on 10/1/2021) (mml) (Entered: 10/04/2021)
10/05/2021	<u>12</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. National Institutes of Health served on 9/22/2021, answer due 10/13/2021. Service was made by MAIL. Document filed by Informed Consent Action Network. (Attachments: # <u>1</u> Exhibit A – Return Receipt Certified Letter to Defendant, # <u>2</u> Exhibit B – Return Receipt Certified Letter to Attorney General USA, # <u>3</u> Exhibit C – Return Receipt Certified Letter to the Civil Process Clerk US Attorney's Office SDNY).(Palmer, Gabrielle) (Entered: 10/05/2021)
10/07/2021		ORDER: The Initial Pretrial Conference previously set for October 8, 2021 is RESCHEDULED to October 12, 2021 at 2:00PM. Parties are directed to dial into the Court's teleconference line at 888-251-2909 and use access code 2123101. (HEREBY ORDERED by Judge Lewis J. Liman) (Text Only Order) (mf) (Entered: 10/07/2021)
10/07/2021		Set/Reset Hearings: Initial Conference set for 10/12/2021 at 02:00 PM before Judge Lewis J. Liman. (mf) (Entered: 10/07/2021)
10/12/2021	<u>13</u>	LETTER addressed to Judge Lewis J. Liman from AUSA Anthony J. Sun dated 10/12/2021 re: status update. Document filed by National Institutes of Health..(Sun, Anthony) (Entered: 10/12/2021)
10/12/2021		Minute Entry for proceedings held before Judge Lewis J. Liman: Initial Pretrial Conference held on 10/12/2021 by Telephone Conference. Gabrielle Palmer and Aaron Siri present by telephone for Plaintiff. Anthony Sun present by telephone for Defendant. Court reporter present by telephone. Next Telephonic Status Conference set for November 3, 2021 at 10:00AM before Judge Lewis J. Liman. (mf) (Entered: 10/14/2021)
10/12/2021		Set/Reset Hearings: Initial Conference set for 11/3/2021 at 10:00 AM before Judge Lewis J. Liman. (mf) (Entered: 10/14/2021)
10/13/2021	<u>14</u>	ANSWER to <u>1</u> Complaint. Document filed by National Institutes of Health..(Sun, Anthony) (Entered: 10/13/2021)
10/22/2021	<u>15</u>	LETTER addressed to Judge Lewis J. Liman from AUSA Anthony J. Sun dated 10/22/2021 re: status update. Document filed by National Institutes of Health..(Sun, Anthony) (Entered: 10/22/2021)
10/25/2021	<u>16</u>	MEMO ENDORSEMENT on re: (15 in 1:21-cv-07288-LJL) Letter filed by National Institutes of Health, (16 in 1:21-cv-07331-LJL) Letter filed by National Institutes of Health. ENDORSEMENT: The request is GRANTED. The parties are directed to submit a further status update on or before October 29, 2021. SO ORDERED. (Signed by Judge Lewis J. Liman on 10/25/2021) (va) (Entered: 10/25/2021)
10/29/2021	<u>17</u>	LETTER addressed to Judge Lewis J. Liman from AUSA Anthony J. Sun dated 10/29/2021 re: status update. Document filed by National Institutes of Health..(Sun, Anthony) (Entered: 10/29/2021)
11/01/2021	<u>18</u>	MEMO ENDORSEMENT on re: (18 in 1:21-cv-07331-LJL) Letter filed by National Institutes of Health, (17 in 1:21-cv-07288-LJL) Letter filed by National Institutes of Health. ENDORSEMENT: The request is GRANTED. The parties are directed to submit a status update on or before November 5, 2021. The conference scheduled for November 3, 2021 is rescheduled to November 12, 2021 at 10:00 a.m. Parties are directed to dial into the Court's teleconference line at 888-251-2909 and use access code 2123101. SO ORDERED. (Initial Conference set for 11/12/2021 at 10:00 AM before Judge Lewis J. Liman.) (Signed by Judge Lewis J. Liman on 11/1/2021) (va)

		(Entered: 11/01/2021)
11/05/2021	<u>19</u>	NOTICE OF APPEARANCE by David Eli Farber on behalf of National Institutes of Health..(Farber, David) (Entered: 11/05/2021)
11/05/2021	<u>20</u>	LETTER addressed to Judge Lewis J. Liman from AUSA Anthony J. Sun dated 11/5/2021 re: status update. Document filed by National Institutes of Health..(Sun, Anthony) (Entered: 11/05/2021)
11/08/2021	<u>21</u>	MEMO ENDORSEMENT on re: (20 in 1:21-cv-07288-LJL) Letter filed by National Institutes of Health, (21 in 1:21-cv-07331-LJL) Letter filed by National Institutes of Health. ENDORSEMENT: The request is GRANTED. The parties are permitted to submit a further status update before the conference on November 12, 2021. SO ORDERED. (Signed by Judge Lewis J. Liman on 11/8/2021) (jca) (Entered: 11/08/2021)
11/12/2021	<u>22</u>	LETTER addressed to Judge Lewis J. Liman from Gabrielle G. Palmer dated 11/12/2021 re: Letter in Advance of November 12 Conference. Document filed by Informed Consent Action Network..(Palmer, Gabrielle) (Entered: 11/12/2021)
11/12/2021		Minute Entry for proceedings held before Judge Lewis J. Liman: Status Conference held on 11/12/2021 by Telephone Conference. Gabrielle Palmer present by telephone for Plaintiff. Anthony Sun and David Farber present by telephone for Defendant. Court reporter present by telephone. Next Telephonic Status Conference set for February 15, 2022 at 3:00PM before Judge Lewis J. Liman. (mf) (Entered: 11/16/2021)
11/15/2021	<u>23</u>	ORDER: The following briefing schedule is hereby ORDERED for the FOIA request at issue in 21-cv-7331: Defendant's motion is due by January 10, 2022. Plaintiff's response and its own motion are due on January 24, 2022. Defendant's reply and its response to Plaintiff's motion are due by January 31, 2022. Plaintiff's reply is due by February 7, 2022. The following production schedule is hereby ORDERED with respect to the FOIA request at issue in 21-cv-7288: Production shall be completed by February 11, 2022. The Vaughn index is due by February 18, 2022. The next conference is scheduled for February 15, 2022 at 3:00 p.m. and will be held remotely by telephone. Parties are directed to dial into the Court's teleconference line at 888-251-2909 and use access code 2123101. SO ORDERED.(Motions due by 1/10/2022. Responses due by 1/31/2022. Replies due by 2/7/2022. Telephone Conference set for 2/15/2022 at 03:00 PM before Judge Lewis J. Liman.) (Signed by Judge Lewis J. Liman on 11/15/2021) (va) (Entered: 11/15/2021)
02/02/2022	<u>24</u>	MEMO ENDORSEMENT on re: (29 in 1:21-cv-07331-LJL) Letter, filed by National Institutes of Health. ENDORSEMENT: So ordered. The parties are directed to submit a status letter on Case No. 21-cv-7331 by February 22, 2022. The Clerk of Court is respectfully directed to file this on the docket of Case No. 21-cv-7331. SO ORDERED. (Signed by Judge Lewis J. Liman on 2/2/2022) (va) (Entered: 02/02/2022)
02/08/2022		Magistrate Judge Jennifer Willis is so redesignated. (vba) (Entered: 02/08/2022)
02/09/2022	<u>25</u>	NOTICE OF APPEARANCE by Elizabeth Ann Brehm on behalf of Informed Consent Action Network..(Brehm, Elizabeth) (Entered: 02/09/2022)
02/09/2022	<u>26</u>	CONSENT LETTER MOTION for Extension of Time <i>Regarding the production currently scheduled for February 11, 2022; the deadline for the Vaughn index currently set for February 18, 2022; and the February 15, 2022 conference</i> , addressed to Judge Lewis J. Liman from Aaron Siri dated 2/09/2022. Document filed by Informed Consent Action Network..(Siri, Aaron) (Entered: 02/09/2022)
02/10/2022	<u>27</u>	ORDER granting <u>26</u> Letter Motion for Extension of Time. The request is granted. The conference set for February 15, 2022 is rescheduled to March 25, 2022 at 5:00 p.m. Parties are directed to dial into the Court's teleconference line at 888-251-2909 and use access code 2123101. SO ORDERED. (Signed by Judge Lewis J. Liman on 2/10/2022) (vfr) (Entered: 02/10/2022)
02/10/2022		Set/Reset Hearings: Telephone Conference set for 3/25/2022 at 5:00 PM before Judge Lewis J. Liman. (vfr) (Entered: 02/10/2022)

02/18/2022	<u>28</u>	LETTER addressed to Judge Lewis J. Liman from Elizabeth A. Brehm dated February 18, 2022 re: Case Status Letter to Court. Document filed by Informed Consent Action Network...(Brehm, Elizabeth) (Entered: 02/18/2022)
03/24/2022	<u>29</u>	JOINT LETTER MOTION to Adjourn Conference addressed to Judge Lewis J. Liman from David Farber dated 3/24/2022. Document filed by National Institutes of Health...(Farber, David) (Entered: 03/24/2022)
03/24/2022	30	ORDER granting <u>29</u> Letter Motion to Adjourn Conference. The Telephonic Status Conference set for March 25, 2022 is rescheduled to April 8, 2022 at 4:30PM. Parties are directed to dial into the Court's teleconference line at 888-251-2909 and use access code 2123101. Telephone Conference set for 4/8/2022 at 04:30 PM before Judge Lewis J. Liman. (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (mf) (Entered: 03/24/2022)
04/06/2022	<u>31</u>	JOINT LETTER MOTION to Adjourn Conference <i>scheduled for April 8, 2022, to April 22, 2022</i> addressed to Judge Lewis J. Liman from David Farber dated 4/6/2022. Document filed by National Institutes of Health...(Farber, David) (Entered: 04/06/2022)
04/07/2022	32	ORDER granting <u>31</u> Letter Motion to Adjourn Conference. The Telephonic Status Conference previously set for April 8, 2022 is rescheduled to April 22, 2022 at 3:00PM. Parties are reminded to dial into the Court's teleconference line at 888-251-2909 and use access code 2123101. Telephone Status Conference set for 4/22/2022 at 03:00 PM before Judge Lewis J. Liman. (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (mf) (Entered: 04/07/2022)
04/21/2022	<u>33</u>	JOINT LETTER MOTION to Adjourn Conference <i>Sine Die</i> addressed to Judge Lewis J. Liman from David Farber dated 4/21/2022. Document filed by National Institutes of Health...(Farber, David) (Entered: 04/21/2022)
04/21/2022	34	ORDER granting <u>33</u> Letter Motion to Adjourn Conference (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (Liman, Lewis) (Entered: 04/21/2022)
04/21/2022	<u>35</u>	STIPULATION OF VOLUNTARY DISMISSAL It is hereby stipulated and agreed by and between the parties and/or their respective counsel(s) that the above-captioned action is voluntarily dismissed, with prejudice against the defendant(s) National Institutes of Health and without costs pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure. Document filed by Informed Consent Action Network. Proposed document to be reviewed and processed by Clerk's Office staff (No action required by chambers) ...(Brehm, Elizabeth) (Entered: 04/21/2022)
04/22/2022		***NOTICE TO COURT REGARDING STIPULATION OF VOLUNTARY DISMISSAL Document No. <u>35</u> Stipulation of Voluntary Dismissal,, was reviewed and referred to Judge Lewis J. Liman for approval for the following reason(s): the voluntary dismissal is requesting other relief;. (nd) (Entered: 04/22/2022)
04/22/2022	<u>36</u>	STIPULATION OF DISMISSAL: IT IS HEREBY STIPULATED AND AGREED, by and between the parties by and through their respective counsel: Plaintiff hereby releases and discharges NIH and the United States of America, including its agencies, departments, officers, employees, servants, and agents, from any and all claims and causes of action that Plaintiff asserted, or could have asserted, in this litigation arising out of the FOIA Request; That the above-captioned action is voluntarily dismissed, with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), each side to bear its own costs, attorney fees, and expenses; ICAN reserves all rights to seek additional documents, whether or not related to this request, through pending or future FOIA requests to the NIH or any other governmental agency as appropriate and nothing herein shall restrict such right; SO ORDERED. (Signed by Judge Lewis J. Liman on 4/22/22) (yv) (Entered: 04/22/2022)