

1 STACY TOLCHIN (SBN 217431)
 2 Stacy@tolchinimmigration.com
 3 MEGAN BREWER (SBN 268248)
 4 Megan@tolchinimmigration.com
 5 SASHA NOVIS (SBN 330683)
 6 Sasha@tolchinimmigration.com
 7 LAW OFFICES OF STACY TOLCHIN
 8 776 E. Green St., Suite 210
 9 Pasadena, CA 91101
 10 Tel: (213) 622-7450
 11 Fax: (213) 622-7233

12 Counsel for Plaintiffs

13 UNITED STATES DISTRICT COURT FOR THE
 14 CENTRAL DISTRICT OF CALIFORNIA

15 Jose Luis CRUZ MORA; Gloria DIXON;
 16 Lehmer SINGH; Sukhwinder SINGH;
 17 Mohammad ZAVAREHI TABATABAI;
 18 and Partap SINGH.

19 Plaintiffs,

20 v.

21 EXECUTIVE OFFICE FOR IMMIGRATION
 22 REVIEW, an agency of the Department of
 23 Justice.

24 Defendant.
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 27
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Case No. _____

**Complaint Under the
Freedom of Information
Act**

1 **INTRODUCTION**

2 1. Plaintiffs are eight individuals residing in the Central District of
3 California who require copies of their files from the Executive Office for
4 Immigration Review in order to make decisions about their immigration matters or
5 in order to prepare for upcoming immigration hearings. They have all filed requests
6 for these records under the Freedom of Information Act, and EOIR has not issued
7 its response within 20 business days, in violation of law.

8 2. Plaintiffs all require access to their immigration records in order to
9 make important, potentially life-altering decisions. There is a public interest in
10 compelling a federal agency to comply with FOIA requirements, particularly in a
11 setting where denial of the information has an adverse impact on the plaintiffs’
12 ability to protect their interests in their immigration cases. See Mayock v. I.N.S.,
13 736 F. Supp. 1561, 1564 (N.D. Cal. 1990). Compelling compliance with FOIA
14 works to preserve the legitimacy and integrity of immigration proceedings. See
15 Gahagan v. United States Customs & Border Prot., No. CV 14-2619, 2016 WL
16 3090216, at *10 (E.D. La. June 2, 2016).

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18 **JURISDICTION AND VENUE**

19 3. This Court has jurisdiction under the FOIA, 5 U.S.C. § 552(a)(4)(B),
20 and 28 U.S.C. §§ 1331 (federal question).

21 4. The Freedom of Information Act provides for an original action in
22 district court if an agency fails to issue a determination to a request within 20
23 business days. “If the agency does not make a ‘determination’ within the relevant
24 statutory time period, the requester may file suit without exhausting administrative
25 appeal remedies.” Brown v. U.S. Customs & Border Prot., 132 F. Supp. 3d 1170,
26 1172 (N.D. Cal. 2015) citing Citizens for Responsibility and Ethics in Wash. v.
27 Fed. Election Comm'n, 711 F.3d 180, 185 (D.C.Cir.2013).

1 5. Venue is proper under 28 U.S.C. § 1391(e)(1) because this is a civil
2 action in which Defendant is the Executive Office for Immigration Review, a
3 federal agency; because Plaintiffs reside in this judicial district; and there is no real
4 property involved in this action.
5

6 **PARTIES**

7 6. Plaintiff Jose Luis Cruz Mora is a citizen of Mexico who resides in
8 Hawthorne, California. He filed her FOIA request with EOIR on December 8,
9 2021.

10 7. Plaintiff Gloria Dixon is a citizen of El Salvador who resides in Reseda,
11 California. She filed her FOIA request with EOIR on February 3, 2022.

12 8. Plaintiff Lehmer Singh is a citizen of India who resides in Riverside,
13 California. He filed his FOIA request with EOIR on November 8, 2021.

14 9. Plaintiff Sukhwinder Singh is a citizen of India who resides in Fontana,
15 California. He filed his FOIA request with EOIR on February 17, 2022.

16 10. Plaintiff Mohammad Zavarehi Tabatabai is a citizen of Iran who
17 resides in Huntington Beach, California. He filed his FOIA request with EOIR on
18 January 21, 2022.

19 11. Plaintiff Partap Singh is a citizen of India who resides in Hawthorne,
20 California. He filed his FOIA request with EOIR on December 14, 2021.

21 12. Defendant Executive Office for Immigration Review (“EOIR”) is an
22 agency within the Department of Justice and encompasses the Immigration Courts
23 and Board of Immigration Appeals.
24

25 **FACTUAL ALLEGATIONS**

26 13. Plaintiff Jose Luis Cruz Mora requires a copy of the record of
27 proceedings of his immigration case because he seeks to reinstate his case before
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1 the Ninth Circuit, which was dismissed for lack of prosecution, but he is unable to
2 obtain his removal history without the immigration court records. He filed a FOIA
3 request, through counsel, with EOIR on December 8, 2021. EOIR issued a receipt
4 and assigned his request case number #2022-14259, but has not issued any
5 response to his request. More than 20 business days have elapsed since Plaintiff
6 Jose Luis Cruz Mora submitted his FOIA request to EOIR.

7 14. Plaintiff Gloria Dixon requires a copy of her files from EOIR in order
8 to make decisions about pursuing naturalization to become a United States citizen.
9 She filed her FOIA request, through counsel, with EOIR on February 3, 2022.
10 EOIR issued a receipt and assigned her request case number 2022-22517, but has
11 not issued any response to her request. More than 20 business days have elapsed
12 since Plaintiff Gloria Dixon submitted her FOIA request to EOIR.

13 15. Plaintiff Lehmer Singh requires a copy of his files from EOIR in order
14 to make decisions about pursuing naturalization. He filed his FOIA request, through
15 counsel, with EOIR on January 19, 2022. EOIR issued a receipt and assigned his
16 request case number 2022-20044, but has not issued any response to his request.
17 More than 20 business days have elapsed since Plaintiff Lehmer Singh submitted
18 his FOIA request.

19 16. Plaintiff Sukhwinder Singh requires a copy of his files from EOIR in
20 order to determine his eligibility to seek lawful permanent residency. He filed his
21 FOIA request, through counsel, with EOIR on February 17, 2022. EOIR issued a
22 receipt and assigned his request case number 2022-24562, but has not issued any
23 response to his request. More than 20 business days have elapsed since Plaintiff
24 Lehmer Singh submitted his FOIA request.

25 17. Plaintiff Mohammad Zavarehi Tabatabai requires a copy of his files
26 from EOIR because he is currently in removal proceedings before an immigration
27 judge in Santa Ana, California, and requires the file to defend against removal to
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1 Iran. He filed his FOIA request, through counsel, with EOIR on January 21, 2022.
2 EOIR issued a receipt and assigned his request case number 2022-20388, but has
3 not issued any response to his request. More than 20 business days have elapsed
4 since Plaintiff Mohammad Zavarehi Tabatabai submitted his FOIA request

5 18. Plaintiff Partap Singh requires a copy of his EOIR files because he is
6 trying to bring his son to the United States based on his relationship with his United
7 States citizen wife, and the Department of Homeland Security contests the validity
8 of that marriage. Since his permanent resident status was granted in immigration
9 court, he requires copies of the immigration court file to defend his son's case. He
10 filed his FOIA request with EOIR, through his attorney, on December 14, 2021.
11 EOIR issued a receipt and assigned his request case number 2022-15427, but has
12 not issued any response to his request. More than 20 business days have elapsed
13 since Plaintiff Partap Singh submitted his FOIA request.

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15 **CAUSE OF ACTION**

16 **COUNT ONE**

17 (Freedom of Information Act)

18 19. Plaintiffs incorporate the allegations in the paragraphs above as though
19 fully set forth here.

20 20. Defendant has unlawfully withheld records requested by Plaintiffs
21 pursuant to 5 U.S.C. § 552.

22 21. An agency is required to issue a determination in response to a FOIA
23 request within 20 business days. 5 U.S.C. § 552(a)(6)(A)(i).

24 22. Defendant has violated the FOIA statute because more than twenty
25 business days have elapsed since Plaintiffs' FOIA requests without a
26 determination.

27 23. Delay by an agency in responding to a FOIA request is tantamount to a
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1 denial. Gilmore v. U.S. Dep't of Energy, 33 F.Supp.2d 1184, 1187
2 (N.D.Cal.1998).

3 24. An agency's "failure to respond to a FOIA request within the statutory
4 time limits violates FOIA and allows the aggrieved party to sue." Brown v. U.S.
5 Customs & Border Prot., 132 F. Supp. 3d 1170, 1173 (N.D. Cal. 2015).

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7 **PRAYER FOR RELIEF**

8
9 WHEREFORE, Plaintiffs pray that this Court grant the following relief:

- 10 (1) Assume jurisdiction over this matter;
- 11 (2) Order Defendant to produce the records requested by
- 12 Plaintiffs;
- 13 (3) Award reasonable costs and attorneys' fees; and
- 14 (4) Grant such further relief as the Court deems just and
- 15 proper.

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17 Dated: May 19, 2022

Respectfully submitted,

18 By: S/Stacy Tolchin
 19 STACY TOLCHIN (SBN 217431)
Stacy@tolchinimmigration.com
 20 MEGAN BREWER (SBN 268248)
Megan@tolchinimmigration.com
 21 LAW OFFICES OF STACY TOLCHIN
 22 SASHA NOVIS (SBN 330683)
Sasha@tolchinimmigration.com
 23 LAW OFFICES OF STACY TOLCHIN
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 25 Pasadena, CA 91101
 26 Tel: (213) 622-7450
 Fax: (213) 622-7233

27 Counsel for Plaintiffs
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