

**U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:21-cv-02109-VB**

McFall v. Stewart
Assigned to: Judge Vincent L. Briccetti
Demand: \$5,000
Cause: 05:552 Freedom of Information Act

Date Filed: 03/11/2021
Date Terminated: 10/31/2022
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff**Kathleen McFall**

represented by **Conor Daniel Ahern**
Alan Lescht
1825 K Street NW
#750
Washington, DC 20006
610-608-9013
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ATTORNEY TO BE NOTICED

V.

Defendant

Al Stewart
Acting Secretary, U.S. Department of Labor

represented by **Brandon Herbert Cowart**
U.S. Attorney's Office, SDNY
86 Chambers Street
New York, NY 10007
(212) 637-2693
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Conor Daniel Ahern
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Date Filed	#	Docket Text
03/11/2021	<u>1</u>	FILING ERROR – DEFICIENT PLEADING – FILED AGAINST PARTY ERROR COMPLAINT against Department of Labor. (Filing Fee \$ 402.00, Receipt Number ANYSDC-24239305) Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/12/2021 (sj). (Entered: 03/11/2021)
03/11/2021	<u>2</u>	FILING ERROR – DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS REQUEST FOR ISSUANCE OF SUMMONS as to Merrick Garland, re: <u>1</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/12/2021 (sj). (Entered: 03/11/2021)
03/11/2021	<u>3</u>	FILING ERROR – DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS REQUEST FOR ISSUANCE OF SUMMONS as to Al Stewart, re: <u>1</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/12/2021 (sj). (Entered: 03/11/2021)
03/11/2021	<u>4</u>	FILING ERROR – DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS REQUEST FOR ISSUANCE OF SUMMONS as to Audrey Strauss, re: <u>1</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/12/2021 (sj). (Entered: 03/11/2021)
03/12/2021	<u>5</u>	CIVIL COVER SHEET filed..(Ahern, Conor) (Entered: 03/12/2021)

03/12/2021		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Conor Daniel Ahern. The following case opening statistical information was erroneously selected/entered: Jurisdiction code 2 (U.S. Government Defendant); Dollar Demand \$1,825,000; Fee Status code due (due). The following correction(s) have been made to your case entry: the Jurisdiction code has been modified to 3 (Federal Question); the Dollar Demand has been modified to \$5,000; the Fee Status code has been modified to pd (paid). (sj) (Entered: 03/12/2021)
03/12/2021		***NOTICE TO ATTORNEY REGARDING DEFICIENT PLEADING. Notice to Attorney Conor Daniel Ahern to RE-FILE re: Document No. <u>1</u> Complaint. The filing is deficient for the following reason(s): all of the parties listed on the pleading were not entered on CM ECF; the wrong party/parties whom the pleading is against were selected; Al Stewart must be added to docket. Docket the event type Add Party to Pleading found under the event list Complaints and Other Initiating Documents.. Re-file the pleading using the event type Complaint found under the event list Complaints and Other Initiating Documents – attach the correct signed PDF – select the individually named filer/filers – select the individually named party/parties the pleading is against. (sj) (Entered: 03/12/2021)
03/12/2021		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Conor Daniel Ahern to RE-FILE Document No. <u>3</u> Request for Issuance of Summons, <u>2</u> Request for Issuance of Summons, <u>4</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): Summons are only issued to active parties to the case. Re-file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (sj) (Entered: 03/12/2021)
03/12/2021		***NOTICE TO ATTORNEY REGARDING REMOVAL OF PARTY. Notice to attorney Conor Daniel Ahern. The following party/parties has been removed from this case: Department of Labor. The party was added to the case in error. (sj) (Entered: 03/12/2021)
03/12/2021		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Vincent L. Briccetti. 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 ..(sj) (Entered: 03/12/2021)
03/12/2021		Magistrate Judge Andrew E. Krause 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 . (sj) (Entered: 03/12/2021)
03/12/2021		Case Designated ECF. (sj) (Entered: 03/12/2021)
03/12/2021		ADD PARTY FOR PLEADING. Defendants/Respondents Al Stewart added. Party added pursuant to <u>1</u> Complaint.,Document filed by Al Stewart. Related document: <u>1</u> Complaint,..(Ahern, Conor) (Entered: 03/12/2021)
03/15/2021	<u>6</u>	COMPLAINT against Al Stewart. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 03/15/2021)
03/15/2021	<u>7</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST As To – REQUEST FOR ISSUANCE OF SUMMONS as to Merrick Garland, re: <u>6</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/16/2021 (dnh). (Entered: 03/15/2021)
03/15/2021	<u>8</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Al Stewart, re: <u>6</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 03/15/2021)
03/15/2021	<u>9</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST As To – REQUEST FOR ISSUANCE OF SUMMONS as to Audrey Strauss, re: <u>6</u> Complaint.

		Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/16/2021 (dnh). (Entered: 03/15/2021)
03/16/2021	<u>10</u>	ELECTRONIC SUMMONS ISSUED as to Al Stewart..(dnh) (Entered: 03/16/2021)
03/16/2021		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Conor Daniel Ahern to RE-FILE Document No. <u>7</u> Request for Issuance of Summons, <u>9</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): 'As to' Error; summonses may only be issued to parties of record. Re-file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (dnh) (Entered: 03/16/2021)
03/16/2021		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney Conor Daniel Ahern. The party information for the following party/parties has been modified: Al Stewart. The information for the party/parties has been modified for the following reason/reasons: party text was omitted. (dnh) (Entered: 03/16/2021)
03/16/2021	<u>11</u>	FILING ERROR – SUMMONS REQUESTED – WRONG EVENT TYPE SELECTED FROM MENU – REQUEST FOR ISSUANCE OF SUMMONS as to Al Stewart, re: <u>6</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/17/2021 (jgo). (Entered: 03/16/2021)
03/16/2021	<u>12</u>	FILING ERROR – SUMMONS REQUESTED – WRONG EVENT TYPE SELECTED FROM MENU – REQUEST FOR ISSUANCE OF SUMMONS as to Al Stewart, re: <u>6</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) Modified on 3/17/2021 (jgo). (Entered: 03/16/2021)
03/17/2021		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Conor Daniel Ahern to RE-FILE Document No. <u>11</u> Request for Issuance of Summons, <u>12</u> Request for Issuance of Summons,. The filing is deficient for the following reason(s): the wrong event type was used to file the request for issuance of summons;. Re-file the document using the event type Request for Issuance of Amended Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (jgo) (Entered: 03/17/2021)
03/17/2021	<u>13</u>	REQUEST FOR ISSUANCE OF AMENDED SUMMONS as to Al Stewart, re: <u>6</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 03/17/2021)
03/17/2021	<u>14</u>	REQUEST FOR ISSUANCE OF AMENDED SUMMONS as to Al Stewart, re: <u>6</u> Complaint. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 03/17/2021)
03/18/2021	<u>15</u>	ELECTRONIC AMENDED SUMMONS ISSUED as to Al Stewart..(dnh) (Entered: 03/18/2021)
03/18/2021	<u>16</u>	ELECTRONIC AMENDED SUMMONS ISSUED as to Al Stewart..(dnh) (Entered: 03/18/2021)
03/30/2021	<u>17</u>	AFFIDAVIT OF SERVICE. Al Stewart served on 3/29/2021, answer due 4/19/2021. Service was accepted by Timothy Deane. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 03/30/2021)
04/13/2021	<u>18</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Service was accepted by Derrick Mayers. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 04/13/2021)
04/19/2021	<u>19</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Al Stewart served on 3/30/2021, answer due 4/20/2021. Service was made by Mail. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 04/19/2021)
04/28/2021	<u>20</u>	ANSWER to <u>6</u> Complaint. Document filed by Al Stewart..(Cowart, Brandon) (Entered: 04/28/2021)

04/29/2021	<u>21</u>	NOTICE OF INITIAL CONFERENCE: THIS MATTER HAS BEEN SCHEDULED FOR A TELEPHONIC INITIAL CASE MANAGEMENT AND SCHEDULING CONFERENCE, pursuant to Fed. R. Civ. P. 16, on 6/2/21 at 9:30a.m. All counsel and/or parties shall use the following information to appear at the conference by telephone: Dial-In Number: (888) 363-4749 (toll free) or (215) 446-3662 Access Code: 1703567. Initial Conference set for 6/2/2021 at 09:30 AM before Judge Vincent L. Briccetti. Telephone Conference set for 6/2/2021 at 09:30 AM before Judge Vincent L. Briccetti. (mml) (Entered: 04/29/2021)
04/30/2021	22	ORDER: By 5/27/2021, counsel shall complete and file on the ECF docket their proposed Civil Case Discovery Plan and Scheduling Order. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (elk) (Entered: 04/30/2021)
05/28/2021	<u>23</u>	LETTER MOTION to Adjourn Conference <i>Scheduled for June 2, 2021</i> , addressed to Judge Vincent L. Briccetti from Brandon Cowart dated May 28, 2021. Document filed by Al Stewart..(Cowart, Brandon) (Entered: 05/28/2021)
05/28/2021	24	ORDER granting <u>23</u> Letter Motion to Adjourn Conference: The initial conference scheduled for 6/2/2021 is adjourned without date. By 7/28/2021, the parties shall submit a joint letter regarding the status of this matter. (HEREBY ORDERED by Judge Vincent L. Briccetti)(Text Only Order) (Briccetti, Vincent) (Entered: 05/28/2021)
07/27/2021	<u>25</u>	STATUS REPORT. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 07/27/2021)
07/28/2021	26	ORDER: On 7/27/2021, the parties filed a joint status report stating that defendant has begun its production of documents pursuant to plaintiff's FOIA request, which includes an estimated production of approximately 400 pages per month through May 2022. Accordingly, by 11/1/2021, and every 90 days thereafter, the parties shall submit a joint status report regarding the status of this matter and of defendant's document production. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (elk) (Entered: 07/28/2021)
11/03/2021	27	ORDER: On 7/28/2021, this Court ordered that by 11/1/2021, and every 90 days thereafter, the parties shall file a joint status report regarding the status of this matter and of defendant's document production. (Doc. #26). The parties have not filed their first status report as ordered by the Court. The Court sua sponte extends to 11/10/2021, the parties' time to file their status report. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (jsy) (Entered: 11/03/2021)
11/11/2021	<u>28</u>	LETTER addressed to Judge Vincent L. Briccetti from Brandon Cowart dated November 11, 2021 re: Status of FOIA Production. Document filed by Al Stewart..(Cowart, Brandon) (Entered: 11/11/2021)
11/12/2021	<u>29</u>	MEMO ENDORSEMENT on re: <u>28</u> Letter filed by Al Stewart. ENDORSEMENT: Further joint status report due 2/10/2022. SO ORDERED. (Signed by Judge Vincent L. Briccetti on 11/12/2021) (mml) (Entered: 11/12/2021)
02/10/2022	<u>30</u>	LETTER addressed to Judge Vincent L. Briccetti from Brandon Cowart dated February 10, 2022 re: Status of FOIA Production. Document filed by Al Stewart..(Cowart, Brandon) (Entered: 02/10/2022)
02/10/2022	<u>31</u>	MEMO ENDORSEMENT on re: <u>30</u> Letter filed by Al Stewart. ENDORSEMENT: Further status report due 5/12/2022. SO ORDERED. (Signed by Judge Vincent L. Briccetti on 2/10/2022) (mml) (Entered: 02/10/2022)
05/13/2022	<u>32</u>	LETTER addressed to Judge Vincent L. Briccetti from Brandon Cowart dated May 13, 2022 re: Status Report. Document filed by Al Stewart..(Cowart, Brandon) (Entered: 05/13/2022)
05/13/2022	<u>33</u>	MEMO ENDORSEMENT on re: <u>32</u> Letter filed by Al Stewart. ENDORSEMENT: Further status report due 8/12/2022. SO ORDERED. (Signed by Judge Vincent L. Briccetti on 5/13/2022) (mml) (Entered: 05/13/2022)
08/17/2022	34	ORDER: By Order dated 5/13/2022 (Doc. #33), the parties were directed to file, by 8/12/2022, a further status report regarding defendant's document production. To date, the parties have not filed the status update. Accordingly, the Court sua sponte extends

		to 8/19/2022, the parties' time to file their status report. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (jsy) (Entered: 08/17/2022)
08/17/2022	<u>35</u>	STATUS REPORT. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 08/17/2022)
08/18/2022	36	ORDER: By 9/30/2022, the parties shall file a further joint status report. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (sla) (Entered: 08/18/2022)
10/05/2022	37	ORDER: By Order dated 8/18/2022 (Doc. #36), the parties were directed to file, by 9/30/2022, a further status report regarding defendant's document production. That deadline was the date the parties jointly requested. Nevertheless, the parties have not filed the status update. Accordingly, the Court <u>sua sponte</u> extends to 10/7/2022, the parties' deadline to file their status report. This is the fourth time the parties have failed to comply with Court orders regarding the filing of status updates in this case. The Court's orders are not mere suggestions, and further noncompliance will result in sanctions being imposed on all counsel. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (jsy) (Entered: 10/05/2022)
10/07/2022	<u>38</u>	STATUS REPORT. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 10/07/2022)
10/11/2022	39	ORDER re: <u>38</u> Status Report filed by Kathleen McFall: By 10/30/2022, the parties shall file a further status update regarding the attorney's fees issue raised in plaintiff's counsel's letter. (HEREBY ORDERED by Judge Vincent L. Briccetti) (Text Only Order) (jsy) (Entered: 10/11/2022)
10/30/2022	<u>40</u>	STATUS REPORT. Document filed by Kathleen McFall..(Ahern, Conor) (Entered: 10/30/2022)
10/31/2022	<u>41</u>	ORDER OF DISMISSAL: The Court has been advised that the parties have reached a settlement in principle of this case. (Doc. #40). Accordingly, it is hereby ORDERED that this action is dismissed without costs, and without prejudice to the right to restore the action to the Court's calendar, provided the application to restore the action is made by no later than December 15, 2022. To be clear, any application to restore the action must be filed by December 15, 2022, and any application to restore the action filed thereafter may be denied solely on the basis that it is untimely. All other deadlines, scheduled conferences, or other scheduled court appearances are cancelled. Any pending motions are moot. The Clerk is instructed to close this case. SO ORDERED. (Signed by Judge Vincent L. Briccetti on 10/31/2022) (ama) (Entered: 10/31/2022)
10/31/2022		Set/Reset Deadlines: Motions due by 12/15/2022. (ama) (Entered: 10/31/2022)