

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:21-cv-02809-TJK**

TOBIAS v. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES et al
Assigned to: Judge Timothy J. Kelly
Cause: 05:552 Freedom of Information Act

Date Filed: 10/22/2021
Date Terminated: 03/23/2023
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

JIMMY TOBIAS

represented by **Joshua Loevy**
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V.

Defendant

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TERMINATED: 12/05/2022

Defendant

**NATIONAL INSTITUTES OF
HEALTH**

represented by **Diana Viggiano Valdivia**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Stephen DeGenaro
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek S. Hammond
(See above for address)
TERMINATED: 12/05/2022

Date Filed	#	Docket Text
10/22/2021	<u>1</u>	COMPLAINT against NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (Filing fee \$ 402 receipt number ADCDC-8818009) filed by JIMMY TOBIAS. (Attachments: # <u>1</u> Exhibit Ex 1-5, # <u>2</u> Exhibit Ex 6-11, # <u>3</u> Civil Cover Sheet, # <u>4</u> Summons)(Wayne, Merrick) (Entered: 10/22/2021)
10/22/2021	<u>2</u>	NOTICE of Appearance by Merrick Jason Wayne on behalf of JIMMY TOBIAS (Wayne, Merrick) (Entered: 10/22/2021)
10/22/2021	<u>3</u>	NOTICE of Appearance by Matthew Topic on behalf of JIMMY TOBIAS (Topic, Matthew) (Entered: 10/22/2021)
10/25/2021		Case Assigned to Judge Timothy J. Kelly. (adh,) (Entered: 10/25/2021)
10/25/2021	<u>4</u>	SUMMONS (4) Issued Electronically as to NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(adh,) (Entered: 10/25/2021)
12/08/2021	<u>5</u>	NOTICE of Appearance by Diana Viggiano Valdivia on behalf of All Defendants (Valdivia, Diana) (Entered: 12/08/2021)
12/08/2021	<u>6</u>	ANSWER to Complaint by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.(Valdivia, Diana) (Entered: 12/08/2021)
12/08/2021		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall meet, confer, and file a joint proposed schedule for briefing or disclosure by January 7, 2022. Signed by Judge Timothy J. Kelly on 12/08/2021. (lctjk2) (Entered: 12/08/2021)
01/07/2022	<u>7</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 01/07/2022)

01/10/2022		MINUTE ORDER: Upon consideration of the parties' <u>7</u> Joint Proposed Schedule for Disclosure, it is hereby ORDERED that the parties shall file a joint status report by April 7, 2022, including, if necessary, a proposed briefing schedule. Signed by Judge Timothy J. Kelly on 01/10/2022. (lctjk2) (Entered: 01/10/2022)
04/05/2022	<u>8</u>	NOTICE of Appearance by Joshua Loevy on behalf of JIMMY TOBIAS (Loevy, Joshua) (Entered: 04/05/2022)
04/07/2022	<u>9</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 04/07/2022)
04/08/2022		MINUTE ORDER: Upon consideration of the parties' <u>9</u> joint status report, it is hereby ORDERED that the parties shall file a further joint status report by June 6, 2022, including, if necessary, a proposed briefing schedule. Signed by Judge Timothy J. Kelly on 04/08/2022. (lctjk2) (Entered: 04/08/2022)
06/06/2022	<u>10</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 06/06/2022)
06/08/2022		MINUTE ORDER: Upon consideration of the parties' <u>10</u> joint status report, it is hereby ORDERED that the parties shall file a further joint status report by July 7, 2022, including, if necessary, a proposed briefing schedule. Signed by Judge Timothy J. Kelly on 06/08/2022. (lctjk2) (Entered: 06/08/2022)
07/07/2022	<u>11</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 07/07/2022)
07/08/2022		MINUTE ORDER: Upon consideration of the parties' <u>11</u> joint status report, it is hereby ORDERED that the following schedule shall govern summary judgment briefing in this case: Defendants shall file their motion for summary judgment by September 13, 2022; Plaintiff shall file his combined response and cross-motion for summary judgment by October 6, 2022; Defendants shall file their combined reply and cross-response by November 7, 2022; and Plaintiff shall file his cross-reply by December 7, 2022. The parties shall comply with all applicable Local Rules, including Local Civil Rule 7(h), in submitting their filings. Signed by Judge Timothy J. Kelly on 07/08/2022. (lctjk2) (Entered: 07/08/2022)
09/09/2022	<u>12</u>	Unopposed MOTION for Extension of Time to <i>File Motion for Summary Judgment</i> by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Valdivia, Diana) (Entered: 09/09/2022)
09/12/2022		MINUTE ORDER granting Defendants' <u>12</u> Unopposed Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Defendants' <u>12</u> Unopposed Motion is GRANTED. It is further ORDERED that the summary judgment schedule the Court previously set, <i>see</i> Minute Order of July 8, 2022, is modified as follows: Defendants shall file their motion for summary judgment by October 13, 2022; Plaintiff shall file his combined response and cross-motion for summary judgment by November 7, 2022; Defendants shall file their combined reply and cross-response by December 7, 2022; and Plaintiff shall file his cross-reply by January 6, 2023. Signed by Judge Timothy J. Kelly on 09/12/2022. (lctjk2) (Entered: 09/12/2022)
10/12/2022	<u>13</u>	NOTICE of Appearance by Derek S. Hammond on behalf of All Defendants (Hammond, Derek) (Entered: 10/12/2022)
10/12/2022	<u>14</u>	Unopposed MOTION for Extension of Time to by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Hammond, Derek) (Entered: 10/12/2022)
10/13/2022		MINUTE ORDER granting Defendants' <u>14</u> Unopposed Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Defendants' <u>14</u> Unopposed Motion is GRANTED. It is further ORDERED that the summary judgment schedule the Court previously modified, <i>see</i> Minute Order of September 12, 2022, is modified anew as follows: Defendants shall file their motion for summary judgment by November 14, 2022; Plaintiff shall file his combined response and cross-motion for

		summary judgment by December 9, 2022; Defendants shall file their combined reply and cross-response by January 8, 2023; and Plaintiff shall file his cross-reply by February 7, 2023. Signed by Judge Timothy J. Kelly on 10/13/2022. (lctjk2) (Entered: 10/13/2022)
11/14/2022	<u>15</u>	Unopposed MOTION for Extension of Time to File by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Hammond, Derek) (Entered: 11/14/2022)
11/14/2022		MINUTE ORDER granting Defendants' <u>15</u> Unopposed Motion for Extension of Time. It is hereby ORDERED, for good cause shown, that Defendants' <u>15</u> Unopposed Motion is GRANTED. VACATED PURSUANT TO ORDER FILED 11/23/2022..... It is further ORDERED that the summary judgment schedule the Court previously modified, see Minute Order of Oct. 13, 2022, is modified anew as follows: Defendants shall file their motion for summary judgment by November 21, 2022; Plaintiff shall file his combined response and cross-motion for summary judgment by December 16, 2022; Defendants shall file their combined reply and cross-response by January 16, 2023; and Plaintiff shall file his cross-reply by February 14, 2023. The Court will not grant another extension absent extraordinary circumstances. Signed by Judge Timothy J. Kelly on 11/14/2022. (lctjk2) Modified to vacate briefing schedule on 11/28/2022 (zkh). (Entered: 11/14/2022)
11/21/2022	<u>16</u>	Consent MOTION to Vacate <i>Briefing Schedule</i> by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Hammond, Derek) (Entered: 11/21/2022)
11/23/2022		MINUTE ORDER granting Defendants' <u>16</u> Consent Motion To Vacate Briefing Schedule. It is hereby ORDERED that Defendants' <u>16</u> Consent Motion is GRANTED. It is further ORDERED that the summary judgment briefing schedule set by Minute Order of November 14, 2022, is VACATED. It is further ORDERED that the parties shall file a joint status report by December 5, 2022. Signed by Judge Timothy J. Kelly on 11/23/2022. (lctjk2) (Entered: 11/23/2022)
12/05/2022	<u>17</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Stephen DeGenaro on behalf of All Defendants Substituting for attorney Derek S. Hammond (DeGenaro, Stephen) (Entered: 12/05/2022)
12/05/2022	<u>18</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(DeGenaro, Stephen) (Entered: 12/05/2022)
12/06/2022		MINUTE ORDER: Upon consideration of the parties' <u>18</u> joint status report, it is hereby ORDERED that the parties shall file a further joint status report by January 18, 2023, including, if necessary, a proposed briefing schedule. Signed by Judge Timothy J. Kelly on 12/6/2022. (lctjk2) (Entered: 12/06/2022)
01/18/2023	<u>19</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(DeGenaro, Stephen) (Entered: 01/18/2023)
01/19/2023		MINUTE ORDER: Upon consideration of the parties' <u>19</u> joint status report, it is hereby ORDERED that the parties shall file a further joint status report by March 3, 2023, including, if necessary, a proposed briefing schedule. Signed by Judge Timothy J. Kelly on 1/19/2023. (lctjk2) (Entered: 01/19/2023)
03/03/2023	<u>20</u>	Joint STATUS REPORT by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(DeGenaro, Stephen) (Entered: 03/03/2023)
03/06/2023		MINUTE ORDER: Upon consideration of the parties' <u>20</u> joint status report, it is hereby ORDERED that the parties shall file a further joint status report by April 3, 2023, including, if necessary, a proposed briefing schedule. Signed by Judge Timothy J. Kelly on 3/6/2023. (lctjk2) (Entered: 03/06/2023)
03/23/2023	<u>21</u>	STIPULATION of Dismissal by NATIONAL INSTITUTES OF HEALTH, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (DeGenaro, Stephen) (Entered: 03/23/2023)