

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:21-cv-01223-JEB**

CATO INSTITUTE v. U.S. DEPARTMENT OF DEFENSE et al
Assigned to: Chief Judge James E. Boasberg
Cause: 05:552 Freedom of Information Act

Date Filed: 05/05/2021
Date Terminated: 05/03/2023
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

CATO INSTITUTE

represented by **Merrick Jason Wayne**
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TERMINATED: 01/21/2022
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V.

Defendant

U.S. DEPARTMENT OF DEFENSE

represented by **Jeremy S. Simon**
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Diana Viggiano Valdivia
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TERMINATED: 08/01/2022

Defendant

**U.S. DEPARTMENT OF THE AIR
FORCE**

represented by **Jeremy S. Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Diana Viggiano Valdivia
(See above for address)
TERMINATED: 08/01/2022

Defendant

U.S. DEPARTMENT OF THE NAVY

represented by **Jeremy S. Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Diana Viggiano Valdivia
(See above for address)
TERMINATED: 08/01/2022

Defendant

U.S. MARINE CORPS

represented by **Jeremy S. Simon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Diana Viggiano Valdivia
(See above for address)
TERMINATED: 08/01/2022

Date Filed	#	Docket Text
05/05/2021	<u>1</u>	COMPLAINT against U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS (Filing fee \$ 402 receipt number ADCDC-8426950) filed by CATO INSTITUTE. (Attachments: # <u>1</u> Exhibit 1-8, # <u>2</u> Exhibit 9-16, # <u>3</u> Civil Cover Sheet, # <u>4</u> Summons)(Burday, Joshua) (Entered: 05/05/2021)
05/05/2021	<u>2</u>	NOTICE of Appearance by Joshua Hart Burday on behalf of CATO INSTITUTE (Burday, Joshua) (Entered: 05/05/2021)
05/05/2021	<u>3</u>	NOTICE of Appearance by Matthew Topic on behalf of CATO INSTITUTE (Topic, Matthew) (Entered: 05/05/2021)
05/05/2021		Case Assigned to Judge James E. Boasberg. (adh,) (Entered: 05/05/2021)
05/05/2021	<u>4</u>	SUMMONS (6) Issued Electronically as to U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S.

		MARINE CORPS, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Notice and Consent)(adh,) (Entered: 05/05/2021)
06/23/2021	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF THE AIR FORCE served on 5/18/2021 (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF DEFENSE served on 5/18/2021 (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF THE NAVY served on 5/18/2021 (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. MARINE CORPS served on 5/19/2021 (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/4/2021. Answer due for ALL FEDERAL DEFENDANTS by 7/4/2021. (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>10</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 05/18/2021. (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>11</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on 5/18/2021. (Burday, Joshua); Modified text on 6/24/2021 (zth). (Entered: 06/23/2021)
06/23/2021	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 05/18/2021. (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>13</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/4/2021. Answer due for ALL FEDERAL DEFENDANTS by 7/4/2021. (Burday, Joshua) (Entered: 06/23/2021)
06/23/2021	<u>14</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on 5/19/2021. (Burday, Joshua); Modified text on 6/24/2021 (zth). (Entered: 06/23/2021)
07/06/2021	<u>15</u>	NOTICE of Appearance by Diana Viggiano Valdivia on behalf of All Defendants (Valdivia, Diana) (Entered: 07/06/2021)
07/06/2021	<u>16</u>	Consent MOTION for Extension of Time to File Answer <i>or Otherwise Respond to Complaint</i> by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Attachments: # <u>1</u> Text of Proposed Order)(Valdivia, Diana) (Entered: 07/06/2021)
07/07/2021		MINUTE ORDER GRANTING Consent <u>16</u> Motion for Extension of Time. The Court ORDERS that Defendants shall file their Answer or otherwise respond to Plaintiff's Complaint by July 20, 2021. So ORDERED by Judge James E. Boasberg on 7/7/2021. (lcjeb3) (Entered: 07/07/2021)
07/07/2021		Set/Reset Deadlines: Answer due by 7/20/2021. (zbn) (Entered: 07/07/2021)
07/20/2021	<u>17</u>	ANSWER to Complaint by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS.(Valdivia, Diana) (Entered: 07/20/2021)
07/21/2021		MINUTE ORDER: The Court ORDERS that the parties shall confer and submit a joint proposed briefing schedule by August 4, 2021. So ORDERED by Judge James E. Boasberg on 7/21/2021. (lcjeb3) (Entered: 07/21/2021)
07/21/2021		Set/Reset Deadlines: Joint Proposed Briefing Schedule due by 8/4/2021. (zbn) (Entered: 07/21/2021)

08/04/2021	<u>18</u>	PROPOSED BRIEFING SCHEDULE by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Valdivia, Diana) Modified event title on 8/6/2021 (znmw). (Entered: 08/04/2021)
08/05/2021		MINUTE ORDER: The Court ADOPTS the parties' <u>18</u> Joint Status Report and ORDERS that they shall file a further joint status report by October 4, 2021. So ORDERED by Judge James E. Boasberg on 8/5/2021. (lcjeb3) (Entered: 08/05/2021)
08/05/2021		Set/Reset Deadlines: Status Report due by 10/4/2021. (nbn) (Entered: 08/06/2021)
10/04/2021	<u>19</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Valdivia, Diana) (Entered: 10/04/2021)
10/04/2021		MINUTE ORDER: The Court ADOPTS the parties' <u>19</u> Joint Status Report and ORDERS that they shall file a further joint status report by December 3, 2021. So ORDERED by Judge James E. Boasberg on 10/4/2021. (lcjeb3) (Entered: 10/04/2021)
10/04/2021		Set/Reset Deadlines: Joint Status Report due by 12/3/2021. (znbn) (Entered: 10/04/2021)
12/03/2021	<u>20</u>	Joint STATUS REPORT by CATO INSTITUTE. (Topic, Matthew) (Entered: 12/03/2021)
12/03/2021		MINUTE ORDER: The Court ADOPTS the parties' <u>20</u> Joint Status Report and ORDERS that they shall file a further joint status report by February 2, 2022. So ORDERED by Judge James E. Boasberg on 12/3/2021. (lcjeb3) (Entered: 12/03/2021)
12/03/2021		Set/Reset Deadlines: Joint Status Report due by 2/2/2022 (lsj) (Entered: 12/03/2021)
01/21/2022	<u>21</u>	MOTION to Withdraw as Attorney by CATO INSTITUTE. (Attachments: # <u>1</u> Text of Proposed Order)(Topic, Matthew) (Entered: 01/21/2022)
01/21/2022		MINUTE ORDER GRANTING <u>21</u> Motion to Withdraw as Attorney. The appearance of Attorney Joshua Hart Burday is terminated. So ORDERED by Judge James E. Boasberg on 1/21/2022. (lcjeb3) (Entered: 01/21/2022)
02/02/2022	<u>22</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Valdivia, Diana) (Entered: 02/02/2022)
02/03/2022		MINUTE ORDER: The Court ADOPTS the parties' <u>22</u> Joint Status Report and ORDERS that they shall file a further joint status report by April 4, 2022. So ORDERED by Judge James E. Boasberg on 2/3/2022. (lcjeb3) (Entered: 02/03/2022)
02/03/2022		Set/Reset Deadlines: Status Report due by 2/3/2022. (nbn) (Entered: 02/03/2022)
04/04/2022	<u>23</u>	NOTICE of Appearance by Joshua Loevy on behalf of CATO INSTITUTE (Loevy, Joshua) (Entered: 04/04/2022)
04/04/2022	<u>24</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Valdivia, Diana) (Entered: 04/04/2022)
04/05/2022		MINUTE ORDER: The Court ADOPTS the parties' <u>24</u> Joint Status Report and ORDERS that they shall file a further joint status report by June 3, 2022. So ORDERED by Judge James E. Boasberg on 4/5/2022. (lcjeb3) (Entered: 04/05/2022)
04/05/2022		Set/Reset Deadlines: Joint Status Report due by 6/3/2022. (nbn) (Entered: 04/05/2022)
06/03/2022	<u>25</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Valdivia, Diana) (Entered: 06/03/2022)
06/06/2022		MINUTE ORDER: The Court ADOPTS the parties' <u>25</u> Joint Status Report and ORDERS that they shall file a further joint status report by August 1, 2022. So ORDERED by Judge James E. Boasberg on 6/6/2022. (lcjeb3) (Entered: 06/06/2022)

06/06/2022		Set/Reset Deadlines: Joint Status Report due by 8/1/2022. (nbn) (Entered: 06/06/2022)
07/26/2022		Set/Reset Deadlines: Status Report due by 9/26/2022. (nbn) (Entered: 07/26/2022)
08/01/2022	<u>26</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Jeremy S. Simon on behalf of All Defendants Substituting for attorney Diana Valdivia (Simon, Jeremy) (Entered: 08/01/2022)
08/01/2022	<u>27</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Simon, Jeremy) (Entered: 08/01/2022)
08/01/2022		MINUTE ORDER: The Court ADOPTS the parties' <u>27</u> Joint Status Report and ORDERS that they shall file a further joint status report by September 15, 2022. So ORDERED by Judge James E. Boasberg on 8/1/2022. (lcjeb3) (Entered: 08/01/2022)
08/01/2022		Set/Reset Deadlines: Joint Status Report due by 9/15/2022 (lsj) (Entered: 08/01/2022)
09/15/2022	<u>28</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Simon, Jeremy) (Entered: 09/15/2022)
09/15/2022		MINUTE ORDER: The Court ADOPTS the parties' <u>28</u> Joint Status Report and ORDERS that they shall file a further joint status report by October 30, 2022. So ORDERED by Judge James E. Boasberg on 09/15/2022. (lcjeb3) (Entered: 09/15/2022)
09/15/2022		Set/Reset Deadlines: Joint Status Report due by 10/30/2022. (znbn) (Entered: 09/16/2022)
10/28/2022	<u>29</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Simon, Jeremy) (Entered: 10/28/2022)
10/31/2022		MINUTE ORDER: The Court ADOPTS the parties' <u>29</u> Joint Status Report and ORDERS that: (1) Defendants shall file their motion for summary judgment by November 22, 2022; (2) Plaintiff shall file its cross-motion for summary judgment and opposition to Defendants' motion by December 22, 2022; (3) Defendants shall file their reply in support of their motion and opposition to Plaintiff's cross-motion by January 17, 2023; and (4) Plaintiff shall file its reply in support of its cross-motion by February 10, 2023. So ORDERED by Judge James E. Boasberg on 10/31/2022. (lcjeb3) (Entered: 10/31/2022)
10/31/2022		Set/Reset Deadlines: Summary Judgment motions due by 11/22/2022. Response to Motion for Summary Judgment due by 12/22/2022. Cross Motions due by 12/22/2022. Reply to Motion for Summary Judgment due by 1/17/2023. Response to Cross Motions due by 1/17/2023. Reply to Cross Motions due by 2/10/2023. (nbn) (Entered: 10/31/2022)
11/22/2022	<u>30</u>	MOTION for Summary Judgment <i>and Supporting Memorandum</i> by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Attachments: # <u>1</u> Defendants' Local Rule 7(h) Statement of Facts Not in Dispute, # <u>2</u> Declaration of Lieutenant Alyssa Degner-Lopez, # <u>3</u> Declaration of Roxanne M. Jensen, # <u>4</u> Proposed Order)(Simon, Jeremy) (Entered: 11/22/2022)
12/08/2022	<u>31</u>	Unopposed MOTION for Extension of Time to <i>Briefing Schedule</i> by CATO INSTITUTE. (Attachments: # <u>1</u> Text of Proposed Order)(Topic, Matthew) (Entered: 12/08/2022)
12/08/2022		MINUTE ORDER GRANTING Consent <u>31</u> Motion for Extension of Time. The Court ORDERS that: (1) Plaintiff shall file its cross-motion for summary judgment and opposition to Defendants' motion by January 19, 2023; (2) Defendants shall file their reply in support of their motion and opposition to Plaintiff's cross-motion by February 21, 2023; and (3) Plaintiff shall file its reply in support of its cross-motion by March 17, 2023. So ORDERED by Judge James E. Boasberg on 12/8/2022. (lcjeb3) (Entered: 12/08/2022)

01/19/2023	<u>32</u>	Cross MOTION for Summary Judgment by CATO INSTITUTE. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration Eddington Decl., # <u>3</u> Statement of Facts, # <u>4</u> Statement of Facts Response to SOF, # <u>5</u> Text of Proposed Order)(Topic, Matthew) (Entered: 01/19/2023)
01/19/2023	<u>33</u>	Memorandum in opposition to re <u>30</u> Motion for Summary Judgment, filed by CATO INSTITUTE. (Attachments: # <u>1</u> Declaration Eddington Decl., # <u>2</u> Statement of Facts, # <u>3</u> Statement of Facts Response to SOF, # <u>4</u> Text of Proposed Order)(Topic, Matthew) (Entered: 01/19/2023)
02/20/2023	<u>34</u>	Unopposed MOTION for Extension of Time to <i>File Reply and Opposition to Cross Motion</i> by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Attachments: # <u>1</u> Proposed Order)(Simon, Jeremy) (Entered: 02/20/2023)
02/21/2023		MINUTE ORDER GRANTING Consent <u>34</u> Motion for Extension of Time. The Court ORDERS that: (1) Defendants shall file their combined reply in support of their motion and opposition to Plaintiff's cross-motion by March 21, 2023; and (2) Plaintiff shall file its reply in support of its cross-motion by April 17, 2023. So ORDERED by Judge James E. Boasberg on 2/21/2023. (lcjeb3) (Entered: 02/21/2023)
02/21/2023		Set/Reset Deadlines: Response to Cross Motions due by 3/21/2023. Reply to Cross Motions due by 4/17/2023. (nbn) (Entered: 02/21/2023)
02/28/2023	<u>35</u>	NOTICE of Appearance by Merrick Jason Wayne on behalf of CATO INSTITUTE (Wayne, Merrick) (Entered: 02/28/2023)
03/21/2023	<u>36</u>	Memorandum in opposition to re <u>32</u> Motion for Summary Judgment, <i>and Reply in Support of Defendants' Motion for Summary Judgment</i> filed by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Attachments: # <u>1</u> Proposed Order)(Simon, Jeremy) (Entered: 03/21/2023)
03/21/2023	<u>37</u>	REPLY to opposition to motion re <u>30</u> MOTION for Summary Judgment <i>and Supporting Memorandum (duplicate of docket entry number 36)</i> filed by U.S. DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF THE AIR FORCE, U.S. DEPARTMENT OF THE NAVY, U.S. MARINE CORPS. (Attachments: # <u>1</u> Proposed Order)(Simon, Jeremy) (Entered: 03/21/2023)
04/17/2023	<u>38</u>	REPLY to opposition to motion re <u>32</u> Cross MOTION for Summary Judgment filed by CATO INSTITUTE. (Topic, Matthew) (Entered: 04/17/2023)
05/03/2023	<u>39</u>	ORDER: For the reasons set forth in the accompanying Memorandum Opinion, the Court ORDERS that: (1) Defendants' <u>30</u> Motion for Summary Judgment is GRANTED; (2) Plaintiff's <u>32</u> Cross-Motion for Summary Judgment is DENIED; and (3) Judgment is ENTERED in favor of Defendants. Signed by Chief Judge James E. Boasberg on 5/3/2023. (lcjeb4) (Entered: 05/03/2023)
05/03/2023	<u>40</u>	Memorandum Opinion re. Order <u>39</u> on Cross-Motions for Summary Judgment. Signed by Chief Judge James E. Boasberg on 5/3/2023. (lcjeb4) (Entered: 05/03/2023)