

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:22-cv-00044-LJL**

Smolen v. The Federal Aviation Administration  
Assigned to: Judge Lewis J. Liman  
Cause: 05:552 Freedom of Information Act

Date Filed: 01/04/2022  
Date Terminated: 06/05/2023  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: Federal Question

**Plaintiff****Robert E. Smolen**

represented by **Robert E. Smolen**  
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Carle Place, NY 11514  
516 491 0465  
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PRO SE

V.

**Defendant****The Federal Aviation Administration**

represented by **Elizabeth J. Kim**  
DOJ-USAO  
86 Chambers St  
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212-637-2745  
Email: [Elizabeth.Kim@usdoj.gov](mailto:Elizabeth.Kim@usdoj.gov)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

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**Defendant****DOJ-USAO**

Date Filed	#	Docket Text
01/04/2022	<u>1</u>	COMPLAINT against The Federal Aviation Administration. (Filing Fee \$ 402.00, Receipt Number 465401291612) Document filed by Robert E. Smolen..(rdz) (Entered: 01/04/2022)
01/04/2022		Case Designated ECF. (rdz) (Entered: 01/04/2022)
01/04/2022		Magistrate Judge Barbara C. Moses 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: <a href="https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf">https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf</a> . (rdz) (Entered: 01/04/2022)

01/07/2022	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Federal Aviation Administration, re: <u>1</u> Complaint. Document filed by Robert E. Smolen. (sc) (Entered: 01/07/2022)
01/07/2022		Transmission to Pro Se Assistants. Transmitted re: <u>3</u> Request for Issuance of Summons to the Pro Se Assistants for processing. (sc) (Entered: 01/07/2022)
01/07/2022	<u>4</u>	SUMMONS ISSUED as to The Federal Aviation Administration. (aan) (Entered: 01/07/2022)
01/07/2022		Mailed a copy of <u>4</u> Summons Issued to Robert E. Smolen 338 Curtis Ave. Carle Place, NY 11514. (aan) (Entered: 01/07/2022)
01/10/2022	<u>5</u>	ORDER OF SERVICE: Plaintiff, who is proceeding pro se, paid the filing fees to commence this action. The Clerk of Court issued a summons as to Defendant Federal Aviation Administration on January 7, 2022. Dkt. No. 4. Plaintiff is directed to serve the summons and complaint on Defendant within 90 days of the issuance of the summons. If within those 90 days, Plaintiff has not either served Defendant or requested an extension of time to do so, the Court may dismiss the claims against Defendant under Rules 4 and 41 of the Federal Rules of Civil Procedure for failure to prosecute. The Clerk of Court is directed to mail an information package to Plaintiff. Plaintiff has consented to receive electronic service of notices and documents in this action. (ECF 1, at 9.) SO ORDERED. (Signed by Judge Alison J. Nathan on 1/10/2022) (vfr) Transmission to Pro Se Assistants for processing. (Entered: 01/10/2022)
01/10/2022	<u>6</u>	INFORMATION PACKAGE MAILED to Robert E. Smolen 338 Curtis Ave. Carle Place, NY 11514, at, on 1/10/2022 Re: <u>5</u> Order of Service. The following document(s) were enclosed in the Service Package: a copy of the order of service or order to answer and other orders entered to date, the individual practices of the district judge and magistrate judge assigned to your case, Instructions for Litigants Who Do Not Have Attorneys, Notice Regarding Privacy and Public Access to Electronic Case Files, a flyer about the free legal assistance clinic located in the Thurgood Marshall Courthouse (only in non prisoner cases), a Motions guide, a notice that the Pro Se Manual has been discontinued, a Notice of Change of Address form to use if your contact information changes, a handout explaining matters handled by magistrate judges and consent form to complete if all parties agree to proceed for all purposes before the magistrate judge, a form for you to complete if you consent to receive filings electronically (only in nonprisoner cases). (aan) (Entered: 01/10/2022)
02/15/2022	<u>7</u>	NOTICE OF APPEARANCE by Elizabeth J. Kim on behalf of The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 02/15/2022)
02/15/2022	<u>8</u>	LETTER MOTION for Extension of Time <i>for the Federal Aviation Administration to respond to the Complaint</i> addressed to Judge Alison J. Nathan from Elizabeth J. Kim dated February 15, 2022. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 02/15/2022)
02/15/2022	<u>9</u>	CERTIFICATE OF SERVICE of Notice of Appearance of Elizabeth J. Kim as counsel for the Federal Aviation Administration, dated February 15, 2022, and an extension letter, dated February 15, 2022, served on Robert E. Smolen on February 15, 2022. Service was made by Certified Mail. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 02/15/2022)
02/16/2022	<u>10</u>	ORDER granting <u>8</u> Letter Motion for Extension of Time. The Court GRANTS the Government's request to extend its time to respond to the complaint to April 1, 2022. The Clerk's office is respectfully directed to mail a copy of this memo endorsement to Plaintiff Smolen. SO ORDERED. (Signed by Judge Alison J. Nathan on 2/16/2022) Transmission to Docket Assistant Clerk for case processing. (va) Modified on 2/17/2022 (va). (Entered: 02/17/2022)
02/16/2022		Transmission to Docket Assistant Clerk. Transmitted re: <u>10</u> Order on Motion for Extension of Time, to the Docket Assistant Clerk for case processing. (va) (Entered: 02/17/2022)
02/16/2022		Set/Reset Deadlines: The Federal Aviation Administration answer due 4/1/2022. (va) (Entered: 02/22/2022)

02/18/2022	<u>11</u>	AFFIRMATION OF SERVICE of Summons and Complaint served. The Federal Aviation Administration, served on 1/27/2022, answer due 3/28/2022. Service was accepted by Neena Williams, Admin. Asst. General Counsel's Office, FAA, Wash., DC 20591. Document filed by Robert E. Smolen. (sc) (Entered: 02/18/2022)
02/18/2022	<u>12</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. The Federal Aviation Administration, served on 1/26/2022, answer due 2/16/2022. Service was made by Mail to U.S. Attorney for the Southern District of New York, 1 St. Andrews Plaza, NY, NY 10007. Document filed by Robert E. Smolen. (sc) (Entered: 02/18/2022)
02/18/2022	<u>13</u>	AFFIDAVIT OF SERVICE of Summons and Complaint, served. (see Doc. #12 for Service Date & Answer Due Date). Service was made by Mail, to the U.S. Dept. of Justice c/o Attorney General of the United States, 950 Pennsylvania Ave., NW, Washington, DC 20630. Document filed by Robert E. Smolen. (sc) Modified on 2/18/2022 (sc). (Entered: 02/18/2022)
03/25/2022	<u>14</u>	SECOND LETTER MOTION for Extension of Time <i>for the Federal Aviation Administration to respond to the Complaint</i> addressed to Judge Alison J. Nathan from Elizabeth J. Kim dated March 25, 2022. Document filed by The Federal Aviation Administration. (Attachments: # <u>1</u> Certificate of Service).(Kim, Elizabeth) (Entered: 03/25/2022)
03/25/2022	<u>15</u>	ORDER granting <u>14</u> Letter Motion for Extension of Time. SO ORDERED. (Signed by Judge Alison J. Nathan on 3/25/2022) (ate) (Entered: 03/25/2022)
03/25/2022		Set/Reset Deadlines: The Federal Aviation Administration answer due 4/22/2022. (ate) (Entered: 03/25/2022)
04/11/2022		NOTICE OF CASE REASSIGNMENT to Judge Lewis J. Liman. Judge Alison J. Nathan is no longer assigned to the case. (vba) (Entered: 04/11/2022)
04/12/2022	<u>16</u>	LETTER addressed to Judge Alison J. Nathan from Robert Smolen, dated 4/8/22 re: I have attempted twice since I agreed to the extension on 3/25/22 to engage in settlement discussions with the defendant's counsel. Those attempts did not receive a response etc. Accordingly, I will not be consenting to any future requests for time extensions and request that the Court not grant any further extensions. Document filed by Robert E. Smolen.(sc) (Entered: 04/12/2022)
04/14/2022	<u>17</u>	LETTER addressed to Judge Lewis J. Liman from Elizabeth J. Kim dated April 14, 2022 re: Plaintiff's letter, filed on April 12, 2022, Dkt. No. 22. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 04/14/2022)
04/20/2022	<u>18</u>	LETTER addressed to Judge Lewis J. Liman from R. Smolen, dated 4/18/22 re: I write in response to the letter filed by Defendant's attorney on 4/14/22 etc. I firmly believe that the defendant has had more than enough time to complete whatever consultations are necessary to finalize the release of these lawfully requested documents. Unfortunately, I feel it is abundantly apparent the controversy in this dispute will need to be resolved by the Court. Again, I think it is necessary to request that the Court not grant any further extensions. Document filed by Robert E. Smolen.(sc) (Entered: 04/20/2022)
04/22/2022	<u>19</u>	NOTICE OF APPEARANCE by Sarah Sheive Normand on behalf of The Federal Aviation Administration..(Normand, Sarah) (Entered: 04/22/2022)
04/22/2022	<u>20</u>	ANSWER to <u>1</u> Complaint. Document filed by The Federal Aviation Administration..(Normand, Sarah) (Entered: 04/22/2022)
08/01/2022	<u>21</u>	LETTER addressed to Judge Lewis J. Liman from R. Smolen, dated 7/29/22 re: I write to request the Court to schedule a preliminary meeting with the parties involved in this matter. I want to inquire whether any amendments to the Complaint should be filed since when I first filed my Complaint on 1/4/22. Document filed by Robert E. Smolen.(sc) (Entered: 08/01/2022)
08/02/2022	<u>22</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference by telephone set for 8/16/2022 at 11:00 AM before Judge Lewis J. Liman. Parties are directed to dial into the Court's teleconference number at 888-251-2909, Access Code 2123101, and follow the necessary prompts. SO ORDERED. (Signed by Judge Lewis J. Liman on 8/2/2022) (vfr) (Entered: 08/02/2022)

08/05/2022	<u>23</u>	LETTER addressed to Judge Lewis J. Liman from Elizabeth J. Kim dated August 5, 2022 re: the Notice of Initial Pretrial Conference dated August 2, 2022, see Dkt. No. 22. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 08/05/2022)
08/05/2022	<u>24</u>	CERTIFICATE OF SERVICE of Letter, dated August 5, 2022, addressed to the Honorable Lewis J. Liman, Dkt. No. 23 served on Robert Smolen on August 5, 2022. Service was made by Mail. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 08/05/2022)
08/08/2022	<u>25</u>	ORDER: On August 5, 2022, Defendant submitted a letter to the Court requesting that the parties be relieved of the obligation to file a proposed Case Management Plan using the standard form and proposing a briefing schedule for cross-motions for summary judgment. Dkt. No. 23. Defendant's request to be relieved of the obligation to file a proposed Case Management Plan using the standard form is GRANTED. The briefing schedule will be discussed at the initial pretrial conference scheduled for August 16, 2022. SO ORDERED. (Signed by Judge Lewis J. Liman on 8/8/2022) (va) (Entered: 08/08/2022)
08/16/2022	<u>26</u>	JOINT LETTER addressed to Judge Lewis J. Liman from Elizabeth J. Kim dated August 16, 2022 re: Parties' Proposed Schedule for Plaintiff to File an Amended Complaint and for Briefing on the Parties' Cross-Motions for Summary Judgment. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 08/16/2022)
08/16/2022		Minute Entry for proceedings held before Judge Lewis J. Liman: Initial Pretrial Conference held on 8/16/2022 by Telephone Conference. Pro Se Plaintiff Robert Smolen present by telephone. Elizabeth Kim and Jodi George present by telephone for Defendant. Court reporter present by telephone. (mf) (Entered: 08/18/2022)
08/17/2022	<u>27</u>	MEMO ENDORSEMENT on re: <u>26</u> Letter, filed by The Federal Aviation Administration. ENDORSEMENT: SO ORDERED. ( Amended Pleadings due by 9/19/2022. Motions due by 11/3/2022. Responses due by 12/19/2022. Replies due by 2/17/2023.) (Signed by Judge Lewis J. Liman on 8/17/2022) (va) (Entered: 08/17/2022)
08/19/2022	<u>28</u>	AFFIDAVIT OF SERVICE of letter, dated August 16, 2022, addressed to the Honorable Lewis J. Liman, Dkt. No. 26, served on Robert E. Smolen on August 17, 2022. Service was made by Mail. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 08/19/2022)
09/13/2022	<u>29</u>	AMENDED COMPLAINT, re: amending <u>1</u> Complaint against DOJ-USAO, The Federal Aviation Administration.Document filed by Robert E. Smolen. Related document: <u>1</u> Complaint.(sc) (Entered: 09/13/2022)
09/29/2022	<u>30</u>	ANSWER to <u>29</u> Amended Complaint. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 09/29/2022)
09/30/2022	<u>31</u>	CERTIFICATE OF SERVICE of Answer to the First Amended Complaint served on Robert E. Smolen on September 30, 2022. Service was made by Mail. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 09/30/2022)
10/21/2022	<u>32</u>	LETTER MOTION for Extension of Time <i>of the Government's deadline to file its motion for summary judgment</i> addressed to Judge Lewis J. Liman from Elizabeth J. Kim dated October 21, 2022. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 10/21/2022)
10/21/2022	33	ORDER granting <u>32</u> Letter Motion for Extension of Time (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (Liman, Lewis) (Entered: 10/21/2022)
11/10/2022	<u>34</u>	SECOND LETTER MOTION for Extension of Time <i>of the Government's deadline to file its motion for summary judgment</i> addressed to Judge Lewis J. Liman from Elizabeth J. Kim dated November 10, 2022. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 11/10/2022)
11/11/2022	35	ORDER granting <u>34</u> Letter Motion for Extension of Time (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (Liman, Lewis) (Entered: 11/11/2022)

12/01/2022	<u>36</u>	MOTION for Summary Judgment . Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 12/01/2022)
12/01/2022	<u>37</u>	MEMORANDUM OF LAW in Support re: <u>36</u> MOTION for Summary Judgment . . Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 12/01/2022)
12/01/2022	<u>38</u>	DECLARATION of Dean Torgerson in Support re: <u>36</u> MOTION for Summary Judgment .. Document filed by The Federal Aviation Administration. (Attachments: # <u>1</u> Exhibit A – Plaintiff's Prior FOIA Request, # <u>2</u> Exhibit B – Clarification of Plaintiff's Prior FOIA Request, # <u>3</u> Exhibit C – FAA's Response to Plaintiff's Prior FOIA Request and Release, # <u>4</u> Exhibit D – Plaintiff's FOIA Request, # <u>5</u> Exhibit E – May 17, 2021 Letter and Release, # <u>6</u> Exhibit F – Administrative Appeal, # <u>7</u> Exhibit G – April 2022 Release, # <u>8</u> Exhibit H – June 30, 2022 FAA Determination Letter).(Kim, Elizabeth) (Entered: 12/01/2022)
12/01/2022	<u>39</u>	DECLARATION of Eugene Freedman in Support re: <u>36</u> MOTION for Summary Judgment .. Document filed by The Federal Aviation Administration. (Attachments: # <u>1</u> Exhibit A – Letter from Wendy Lucas to Paul Rinaldi, # <u>2</u> Exhibit B – Letter from Nicole Vitale to Laura Glading).(Kim, Elizabeth) (Entered: 12/01/2022)
12/01/2022	<u>40</u>	DECLARATION of Shelly Mlakar in Support re: <u>36</u> MOTION for Summary Judgment .. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 12/01/2022)
12/01/2022	<u>41</u>	NOTICE of To Pro Se Litigant Who Opposes a Motion For Summary Judgment re: <u>36</u> MOTION for Summary Judgment .. Document filed by The Federal Aviation Administration. (Attachments: # <u>1</u> Exhibit Local Civil Rule 56, # <u>2</u> Exhibit Rule 56 Summary Judgment Rule Text And Notes of Decisions subdivisions I to XV).(Kim, Elizabeth) (Entered: 12/01/2022)
12/01/2022	<u>42</u>	CERTIFICATE OF SERVICE of (1) Federal Aviation Administrations (FAA) Notice of Motion for Summary Judgment Under Federal Rule of Civil Procedure 56, (2) Memorandum of Law in Support of the FAAs Motion for Summary Judgment Under Federal Rule of Civil Procedure 56, (3) All unpublished decisions, (4) Declaration of Dean Torgerson, (5) Declaration of Eugene Freedman, (6) Declaration of Shelly Mlakar, (7) Notice to Pro Se Litigant Pursuant to Local Civil Rules 12.1 and 56.2 served on Robert E. Smolen on December 1, 2022. Service was made by Mail. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 12/01/2022)
01/10/2023	<u>43</u>	PLAINTIFF'S CROSS–MOTION FOR SUMMARY JUDGMENT AND OPPOSITION(AFFIRMATION of Robert Smolen in Opposition) TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, re: <u>36</u> MOTION for Summary Judgment . Document filed by Robert E. Smolen. (sc) (Entered: 01/10/2023)
01/10/2023	<u>44</u>	MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S CROSS–MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, re: <u>36</u> MOTION for Summary Judgment . Document filed by Robert E. Smolen. (sc) (Entered: 01/10/2023)
02/10/2023	<u>45</u>	LETTER MOTION for Extension of Time to File Response/Reply <i>in further support of the Government's motion for summary judgment and its opposition to Plaintiff's cross–motion for summary judgment</i> addressed to Judge Lewis J. Liman from Elizabeth J. Kim dated February 10, 2023. Document filed by The Federal Aviation Administration. (Attachments: # <u>1</u> Affidavit Certificate of Service).(Kim, Elizabeth) (Entered: 02/10/2023)
02/11/2023	46	ORDER granting <u>45</u> Letter Motion for Extension of Time to File Response/Reply re <u>45</u> LETTER MOTION for Extension of Time to File Response/Reply <i>in further support of the Government's motion for summary judgment and its opposition to Plaintiff's cross–motion for summary judgment</i> addressed to Judge Lewis J. Liman fr (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (Liman, Lewis) (Entered: 02/11/2023)
02/27/2023	<u>47</u>	SECOND LETTER MOTION for Extension of Time to File Response/Reply <i>in further support of the Government's motion for summary judgment and its opposition to Plaintiff's cross–motion for summary judgment</i> addressed to Judge Lewis J. Liman

		from Elizabeth J. Kim dated February 27, 2023. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 02/27/2023)
02/28/2023	<u>48</u>	ORDER granting <u>47</u> Letter Motion for Extension of Time to File Response/Reply re <u>47</u> SECOND LETTER MOTION for Extension of Time to File Response/Reply <i>in further support of the Government's motion for summary judgment and its opposition to Plaintiff's cross-motion for summary judgment</i> addressed to Judge Lewis J. Li (HEREBY ORDERED by Judge Lewis J. Liman)(Text Only Order) (Liman, Lewis) (Entered: 02/28/2023)
03/15/2023	<u>49</u>	REPLY MEMORANDUM OF LAW in Support re: <u>36</u> MOTION for Summary Judgment . & <i>Opposition to Plaintiff's Cross-Motion for Summary Judgment.</i> Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 03/15/2023)
03/15/2023	<u>50</u>	DECLARATION of Shelly Mlakar in Support re: <u>36</u> MOTION for Summary Judgment .. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 03/15/2023)
03/15/2023	<u>51</u>	CERTIFICATE OF SERVICE of (1) Federal Aviation Administrations (FAA) Reply Memorandum of Law in Further Support of the FAAs Motion for Summary Judgment and in Opposition to Plaintiffs Cross-Motion for Summary Judgment (the FAAs brief), (2) the unpublished authorities cited in the FAAs brief, (3) and the Supplemental Declaration of Shelly Mlakar served on Robert E. Smolen on March 15, 2023. Service was made by Federal Express. Document filed by The Federal Aviation Administration..(Kim, Elizabeth) (Entered: 03/15/2023)
04/11/2023	<u>52</u>	REPLY IN FURTHER SUPPORT OF PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT & OPPOSITION TO DEFENDANT'S MEMORANDUM OF LAW ETC., re: <u>43</u> Affirmation in Opposition to Motion. Document filed by Robert E. Smolen. (sc) (Entered: 04/11/2023)
06/02/2023	<u>53</u>	OPINION AND ORDER re: <u>36</u> MOTION for Summary Judgment . filed by The Federal Aviation Administration. Defendant's motion for summary judgment is GRANTED and Plaintiff's motion for summary judgment is DENIED. The Clerk of Court is respectfully directed to close Dkt. No. 36 and to close this case. (Signed by Judge Lewis J. Liman on 6/2/2023) (rro) Transmission to Orders and Judgments Clerk for processing. (Entered: 06/05/2023)
06/05/2023	<u>54</u>	CLERK'S JUDGMENT re: <u>53</u> Memorandum & Opinion. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated June 2, 2023, Defendant's motion for summary judgment is GRANTED and Plaintiff's motion for summary judgment is DENIED; accordingly, the case is closed. (Signed by Clerk of Court Ruby Krajick on 6/2/2023) (Attachments: # <u>1</u> Appeal Package) (tp) (Main Document 54 replaced on 6/5/2023) (tp). (Entered: 06/05/2023)