

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
v.)	Civil Action No.
)	
NATIONAL ARCHIVES AND)	
RECORDS ADMINISTRATION,)	
8601 Adelphi Road, Room 5210)	
College Park, MD 20740-6001,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant National Archives and Records Administration to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly serves FOIA requests on federal agencies, analyzes the responses it receives, and

disseminates its findings and any records to the American public to inform them about “what their government is up to.”

4. Defendant National Archives and Records Administration (“NARA”) is an agency of the United States Government and is headquartered at 8601 Adelphi Road, College Park, MD 20740. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On June 15, 2023, Plaintiff submitted a FOIA request to NARA, by email, seeking access to the following public records:

- 1) Policies, procedures, regulations, or other documents outlining NARA procedures assisting a U.S. President during transition from office. Records from January 1, 2009, to present.
- 2) Coordination with the Department of Defense to assist with inventory, packing or transport of any records from the White House, from November 1, 2020, to December 1, 2021.
- 3) Advice and assistance regarding “records” provided by NARA to former President Trump, his transition team, record custodians or representatives from May 1, 2020, to July 1, 2021.
- 4) NARA employees assisting former President Trump and/or his representatives inventorying, reviewing, packing, or moving boxes at the White House from November 1, 2020, to April 1, 2021.
- 5) Request for assistance from former President Trump or his representatives to assist with packing, inventorying, reviewing, or storing records from November 1, 2020, to February 1, 2022.
- 6) NARA offering or providing a secure storage location other than the National Archives for records potentially being retained by former President Trump or his representatives from November 1, 2020, to December 31, 2021.

- 7) NARA inserting placeholder pages in any of the 15 boxes obtained from former President Trump's home in Mar-a-Lago, FL, from November 1, 2020, to December 1, 2022.
- 8) Consultations with the Office of the Director of National Intelligence ("ODNI") concerning classification or declassification procedures of any of the alleged classified documents found in the 15 boxes recovered from former President Trump's home in Mar-a-Lago, FL, from January 21, 2021, to present.

6. By email dated June 20, 2023, NARA acknowledged receiving Plaintiff's request on June 15, 2023, and advised Plaintiff that the request had been assigned "tracking number NGC23-419."

7. As of the date of this Complaint, NARA has failed to: (i) produce the requested records or demonstrate that the records are lawfully exempt from disclosure; (ii) notify Plaintiff of the scope of any responsive records it intends to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

8. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.
9. Defendant is in violation of FOIA.
10. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.
11. Plaintiff has no adequate remedy at law.
12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by July 17, 2023. Because

Defendant failed to make a final determination on the request within the time limit set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to complete its search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably calculated to uncover all records responsive to the request; (2) enjoin Defendant from further delaying its determination about the scope of any responsive records it intends to produce to Plaintiff or further delaying any required notice of intent to disclose such records under 36 C.F.R. § 1270.46; (3) order Defendant to provide a *Vaughn* index of any responsive records Defendant intends to withhold under claim of exemption; (4) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request and not protected from disclosure by a constitutionally based privilege asserted by a former or incumbent President under 36 C.F.R. § 1270.48; (5) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (6) grant Plaintiff such other relief as the Court deems just and proper.

Dated: August 7, 2023

Respectfully submitted,

/s/ Paul J. Orfanedes
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