

1 John E. Gamble, III
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6 Plaintiff, In *Pro Se*



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8 **UNITED STATES DISTRICT COURT**
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10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
11 **SAN DIEGO DIVISION**

13 JOHN E. GAMBLE, III,

Case No.: '23CV1706 BAS BLM

14 Plaintiff,

15 vs.

**COMPLAINT FOR
16 INJUCTIVE RELIEF UNDER
17 FREEDOM OF INFORMATION
18 ACT**

17 U.S. DEPARTMENT OF HOMELAND
18 SECURITY
19 IMMIGRATION AND CUSTOMS
20 ENFORCEMENT
21 FREEDOM OF INFORMATION ACT
22 OFFICE
23 500 12TH Street, S.W., Stop 5009
24 Washington, DC 20536-5009

25 Defendant

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28 **COMPLAINT FOR INJUCTIVE RELIEF UNDER FREEDOM OF INFORMATION
ACT**

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3 **COMPLAINT FOR INJUNCTIVE RELIEF**

4 1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive
5 and other appropriate relief and seeking the disclosure and release of agency records,
6 and/or portions thereof, improperly withheld from Plaintiff by Defendant U.S.
7 Department of Homeland Security (“DHS), Immigration and Customs Enforcement
8 division (“ICE”).
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11 **JURISDICTION AND VENUE**

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13 2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § § 552a(g)(1),
14 552(a)(4)(B), and 28 U.S.C. § 1331. This Court has both subject matter jurisdiction
15 over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §
16 552(a)(4)(B). Venue is appropriate in this District under 5 U.S.C. §§ 552a(g)(5),
17 552(a)(4)(B), and 28 U.S.C. § 1391.
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21 **PARTIES**

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23 3. Plaintiff John E. Gamble III is a resident of San Diego County, California, and was an
24 Officer of Affordable Housing Initiatives (AHI), Incorporated, a Texas 501(c)3 public
25 benefit corporation authorized to do business in California, at all relevant times.
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1 4. Defendant ICE is an executive department of the Federal Government of the United
2 States of America. ICE is an agency within the meaning of 5 U.S.C. § 552(1).
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5 **PLAINTIFF’S FOIA REQUEST**

6 5. On May 31, 2023 Plaintiff submitted a Freedom of Information Act (FOIA) Request:
7 ICE FOIA Case No.: 2023-ICFO-28240. Plaintiff requested all findings and/or
8 determinations in reference to an inspection held on or around July 29, 2019 at a
9 Residential Care Facility for the Elderly (RCFE). (Gamble’s FOIA Request Attached
10 as Attachment 1). That RCFE is owned and operated by Affordable Senior Housing
11 Foundation, D.B.A. Oak Hill Residential Care, a San Diego based 501(C)3 non-profit
12 public benefit corporation. On August 15, 2023, Gamble electronically received ICE’s
13 final 28-page response, of which 25 were presented as responsive records relating to
14 the May 31 FOIA request. (Responsive Records Attached as Attachment 2).
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19 6. Defendant ICE has wrongfully withheld the unredacted records from Plaintiff, in
20 violation of 5 U.S.C. § 552(a)(6)(A)(ii).
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23 **DEFENDANT ICE’S ERRONEOUS REDACTIONS**

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25 7. In a response letter dated August 10, 2023, Defendant ICE notified Plaintiff that
26 specified materials were subject to redaction. Redactions were stated to be executed in
27 accordance with exemptions 6 and 7(c) under the FOIA 5 U.S.C. § 552.
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1 8. ICE, pursuant to their own interpretation of 5 U.S.C. § 552, and specifically FOIA
2 exemptions (b)(6) and (b)(7)(C) therein, asserts that the identities of legal counsel
3 representing the subject entity known as “Oak Hill Residential Care” fall within the
4 ambit of “Personal Information.” These redaction protocols are herein contended to be
5 erroneously applied with respect to the identities of lawyers representing the subject
6 entity. Such agents were operating in a professional, representational capacity, distinct
7 from the entity that was subject to the investigation. Plaintiff contends that the
8 redactions of the names of counsel representing the subject is legally insupportable and
9 constitutes a clear misapplication of FOIA exemptions 6 and 7(c).
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11 9. The “name” of an attorney is patently not a part of the attorney client communication
12 privilege, nor the attorney work product privilege.
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17 **PLAINTIFF’S FOIA APPEAL**

18 10. On August 17, 2023 Defendant ICE acknowledged receipt of Gamble’s letter appealing
19 the adverse determination of ICE’s FOIA production. The Government Information
20 Law Division assigned the appeal the tracking No.: 2023-ICAP-00428. (Appeal Letter
21 Attached as Attachment 3).
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25 **DEFENDANT ICE’S RESPONSE TO PLAINTIFF’S APPEAL**

26 11. By electronic mail (email) dated September 15, 2023 Plaintiff received notice from the
27 Government Information Law Division stating that the appeal was denied. Author
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COMPLAINT FOR INJUNCTIVE RELIEF UNDER FREEDOM OF INFORMATION

ACT

1 claims Defendant's FOIA Office properly applied FOIA Exemptions (b)(6) and
2 (b)(7)(C) in order to prevent "members of the public [from drawing] inferences from
3 the mere fact that an individual is mentioned...". (ICE Response Letter Attached as
4 Attachment 4).
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7 **THE PUBLIC'S INTEREST IN DISCLOSING**
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9 12.Plaintiff hereby asserts that the identities of legal representatives acting on behalf of
10 the entity, known as "Oak Hill Residential Care," are subject to mandatory disclosure,
11 as such the revelation serves the overwhelming interest of the general public. Given
12 the protracted duration of the investigation in question, coupled with the ostensibly
13 minimal findings thereof, it is incumbent upon the public to ascertain whether
14 preferential treatment was unduly conferred upon the subject organization. Such
15 preferential treatment may stem from prior affiliations or relationships between said
16 attorneys in any department or officials within the DHS and/or ICE.
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20 13.Defendant ICE concedes, in its own articulation, that the agency's rationale for
21 redacting the identities of legal representatives for the subject entity known as "Oak
22 Hill Residential Care" is to avert public scrutiny. Specifically, ICE contends that the
23 disclosure of such identities may precipitate "adverse inferences" against the agency
24 itself.
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1 14. This admission by Defendant ICE not only undermines the purported legitimacy of
2 invoking Exemptions 6 and 7(c) under the Freedom of Information Act, but also
3 contravenes the Act's foundational purpose: namely, to provide the public with the
4 requisite transparency to scrutinize governmental actions. The agency's self-avowed
5 aim to evade such scrutiny by withholding information critical to the public interest is
6 antithetical to the principles and statutory mandates undergirding the Freedom of
7 Information Act. Thus, the Defendant's redaction of this information, by its own
8 admission, fails to meet the substantive criteria for exemption under the Act and is
9 therefore impermissible.
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14 **REQUESTED RELIEF**

15 WHEREFORE, Plaintiff prays that this Court:

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17 A) Declare that ICE violated the Freedom of Information Act;
18 B) Order ICE to immediately disclose names of the lawyers to John E. Gamble III;
19 C) Award Plaintiff reasonable costs and fees as provided in 5 U.S.C. §§
20 552a(g)(3)(B) and/or (4)(B), 552 (a)(4)(E) and/or 28 U.S.C. § 2412 (d);
21 D) Expedite this action in every way pursuant to 28 U.S.C. § 1657 (a); and
22 E) Grant such other relief as the court may deem just and proper.
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Respectfully submitted,

By: 
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