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7	Attorneys for Plaintiff Glancy Prongay & Murray LLP			
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9	UNITED STATE	ES DISTDICT COUDT		
10	UNITED STATES DISTRICT COURT			
11	CENTRAL DISTRICT OF CALIFORNIA			
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13	GLANCY PRONGAY & MURRAY LLP,	Case No.:		
14 15		COMPLAINT FOR INJUNCTIVE		
15	Plaintiff,	AND DECLARATORY RELIEF UNDER THE FREEDOM OF		
17	V.	INFORMATION ACT, 5 U.S.C. § 552		
18	FEDERAL AVIATION			
19	ADMINISTRATION,			
20	Defendant.			
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	COMPLAINT			

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## NATURE OF THE ACTION AND OVERVIEW

Glancy Prongay & Murray LLP ("Plaintiff") brings this action for
 injunctive and declaratory relief under the Freedom of Information Act ("FOIA"),
 5 U.S.C. §552, to compel the Federal Aviation Administration ("FAA" or "Defendant")
 to produce all records requested pursuant to two valid FOIA requests.

Plaintiff's first FOIA request was submitted to the FAA on August 3,
2023. The FAA denied that request by letter dated August 23, 2023. On August 29,
2023 Plaintiff emailed the FAA to appeal the denial of the request. As of the filing of
this complaint, Plaintiff has not received a determination from the FAA of this appeal.

Plaintiff's second FOIA request was submitted to the FAA on August 29,
 2023. As of the filing of this complaint, Plaintiff has not received a determination from
 the FAA of this request.

4. The FAA's failure to make a determination with respect to Plaintiff's
appeal of the denial of the first request, and with respect to Plaintiff's second request, is
in contravention of the 20 working day period set by 5 U.S.C. § 552(a)(6)(A)(i)-(ii).

16 5. Plaintiff now seeks an order requiring the FAA to immediately produce all17 documents responsive its requests.

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## **JURISDICTION**

19 6. This Court has subject matter jurisdiction over the action because it arises
20 under a federal statute and the Defendant is an agency of the United States. 28 U.S.C.
21 §§ 1331 and 1346; 5 U.S.C. §§ 551(1) and 552(f)(1).

23 24 7. This Court has personal jurisdiction over the parties because Plaintiff, the complainant, has its principal place of business in the Central District of California.
5 U.S.C. § 552(a)(4)(B).

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8. Venue is proper because Plaintiff has its principal place of business in the
Central District of California. 5 U.S.C. § 552(a)(4)(B).

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PARTIES 1 Plaintiff Glancy Prongay & Murray LLP is a law firm with its main office 2 9. 3 in Los Angeles, California. It is the requestor of the records. Plaintiff made the two FOIA requests at issue in this action in connection with a time sensitive legal matter. 4 5 10. The Federal Aviation Administration is a federal agency within the meaning of 5 U.S.C. § 552(f)(1). Based on information and belief, the FAA has 6 possession and control over the records sought by Plaintiff. 7 8 FACTS 9 Plaintiff's First FOIA Request To The FAA A. On August 3, 2023 Plaintiff submitted a FOIA request to the FAA via a 10 11. form on its website at https://www.faa.gov/foia/email foia/?region=hq. 11 On August 16, 2023 the FAA emailed Plaintiff to acknowledge receipt of 12 12. 13 the request, under the subject line "Freedom of Information Act (FOIA) Request 2023-07715." 14 On August 24, 2023 the FAA emailed Plaintiff attaching a letter dated 15 13. August 23, 2023, titled "Freedom of Information Act (FOIA) Request Number 2023-16 07715 No Records." The letter stated that it was a "full denial," and indicated that 17 responsive records were being withheld pursuant to "Exemption 7(A)" of FOIA. 18 On August 29, 2023 Plaintiff appealed the denial of this first request by 19 14. emailing FOIA-Appeals@faa.gov and attaching a letter stating the grounds for the 20 appeal. 21 22 15. On September 19, 2023 the FAA emailed Plaintiff to acknowledge receipt 23 of the appeal, and stated that "[t]he appeal has been assigned tracking number AFAA-2023-00048." 24 25 As of the filing of this complaint, Plaintiff has not received a 16. determination from the FAA of this appeal. 26 27 28

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## B. Plaintiff's Second FOIA Request To The FAA

2 17. On August 29, 2023 Plaintiff submitted a second FOIA request to the FAA
3 via a form on its website at https://www.faa.gov/foia/email\_foia/?region=hq.

4 18. As of the filing of this complaint, Plaintiff has not received a
5 determination from the FAA of this second request. Plaintiff has not even received an
6 acknowledgement of the request or a FOIA request number.

**LEGAL FRAMEWORK** 

8 19. The Freedom of Information Act promotes open government by providing
9 every person with a right to request and receive federal agency records. 5 U.S.C.
10 § 552(a)(3)(A) and (f).

20. An agency must comply with a FOIA request within 20 working days or
immediately inform the requestor why an adverse determination was made and of the
right to appeal. 5 U.S.C. § 552(a)(6)(A)(i).

14 21. If a requestor appeals an adverse FOIA determination, an agency must
15 make a determination with respect to any appeal within 20 working days after the
16 receipt of such appeal. 5 U.S.C. § 552(a)(6)(A)(ii).

17 22. An agency's failure to comply with any timing requirements is deemed
18 constructive denial and satisfies the requestor's requirement of administrative
19 exhaustion, meaning that no intra-agency appeal is necessary before bringing suit in
20 district court. 5 U.S.C. §552(a)(6)(C)(i).

21 23. A FOIA requestor that has exhausted its administrative remedies may
22 petition the court for injunctive and declaratory relief from the agency's continued
23 withholding of public records. 5 U.S.C. § 552(a)(4)(B).

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# CAUSE OF ACTION

# Violation of the Freedom of Information Act

26 24. The allegations in the preceding paragraphs are re-alleged and27 incorporated by reference as if fully set forth herein.

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25. Plaintiff made two proper FOIA requests, and properly appealed the
 FAA's denial of the first request.

3 26. The FAA violated its statutory and regulatory duties by failing to produce the requested records or otherwise make a determination with respect to Plaintiff's 4 5 appeal of the denial of the first request, and with respect to Plaintiff's second request. 27. Plaintiff exhausted all applicable administrative remedies because the FAA 6 7 constructively denied Plaintiff's appeal of the denial of the first request, and the FAA 8 constructively denied Plaintiff's second request, by failing to provide a determination 9 within 20 working days. 5 U.S.C. § 552(A)(6)(A)(i)-(ii). 10 28. Accordingly, Plaintiff has a right under FOIA to injunctive and declaratory relief against the FAA for its failure to timely produce the requested records. 11 **RELIEF REQUESTED** 12 13 WHEREFORE, Plaintiff seeks judgment as follows: An order enjoining Defendant from withholding the records requested by 14 (a) 15 Plaintiff; 16 (b) An order requiring Defendant to produce the requested information; 17 An award to Plaintiff of all costs and reasonable attorneys' fees as (c) 18 provided in 5 U.S.C. § 552(a)(4)(E) or any other law; 19 An order that the Court reserves jurisdiction to ensure that Defendant (d) timely complies with its orders; and 20 All other relief as the Court may deem just and proper. 21 (e) 22 23 24 25 26 27 28 COMPLAINT

1	DATED:	September 28, 2023	GLANCY PRONGAY & MURRAY LLP
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