

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CIVIL DOCKET FOR CASE #: 1:19-cv-00319-LGF

Buckley v. U. S. Department of Justice
Assigned to: Hon. Leslie G. Foschio
Related Case: 1:19-cv-00417-RJA-LGF
Cause: 05:552 Freedom of Information Act

Date Filed: 03/08/2019
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**Nathaniel J. Buckley**

represented by **Michael Kuzma**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant**U. S. Department of Justice**

represented by **Michael S. Cerrone**
U.S. Attorney's Office
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Date Filed	#	Docket Text
03/08/2019	<u>1</u>	COMPLAINT against U. S. Department of Justice \$ 400 receipt number 0209-3384360, filed by Nathaniel J. Buckley. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(Kuzma, Michael) (Entered: 03/08/2019)
03/12/2019		Case assigned to Hon. Richard J. Arcara. Notification to chambers of on-line civil opening. (KLH) (Entered: 03/12/2019)
03/12/2019		Notice of Availability of Magistrate Judge: A United States Magistrate of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form (AO-85) is available for download at http://www.uscourts.gov/services-forms/forms . (KLH) (Entered: 03/12/2019)
03/12/2019	<u>2</u>	Summons Issued as to U. S. Department of Justice. (KLH) (Entered: 03/12/2019)
03/30/2019	<u>3</u>	AFFIDAVIT of Service for Summons and Complaint served on Mark Witzleben, United States Attorney's Office, on March 18, 2019, filed by Nathaniel J. Buckley. (Kuzma, Michael) (Entered: 03/30/2019)
04/16/2019	<u>4</u>	ANSWER to <u>1</u> Complaint by U. S. Department of Justice.(Cerrone, Michael) (Entered: 04/16/2019)
04/24/2019	<u>5</u>	TEXT ORDER REFERRING CASE to Magistrate Judge Hon. Jeremiah J. McCarthy. The Magistrate Judge is hereby designated to act in this case as follows: Pursuant to 28 U.S.C. Section 636(b)(1)(A) and (B), all pre-trial matters in this case are referred to the above-named United States Magistrate Judge, including but not limited to: (1)

		conduct of a scheduling conference and entry of a scheduling order pursuant to Fed. R. Civ. P. 16, (2) hearing and disposition of all non-dispositive motions or applications, (3) supervision of discovery, and (4) supervision of all procedural matters involving the aforementioned or involving the preparation of the case or any matter therein for consideration by the District Judge. The Magistrate Judge shall also hear and report upon dispositive motions for the consideration of the District Judge pursuant to 28 U.S.C. Section 636(b)(1)(B) and (C). All motions or applications shall be filed with the Clerk and made returnable before the Magistrate Judge. The parties are encouraged to consider the provisions of 28 U.S.C. Section 636(c) governing consent to either partial or complete disposition of the case, including trial if necessary, by the Magistrate Judge. Consent forms are available from the office of the Magistrate Judge or the office of the Clerk of Court. IT IS SO ORDERED. Issued by Hon. Richard J. Arcara on 4/24/2019. (LAS) (Entered: 04/24/2019)
04/26/2019	<u>6</u>	TEXT ORDER REFERRING CASE to Magistrate Judge Hon. Leslie G. Foschio. The previous referral order 5 to Magistrate Judge Jeremiah J. McCarthy is vacated. The Magistrate Judge is hereby designated to act in this case as follows: Pursuant to 28 U.S.C. Section 636(b)(1)(A) and (B), all pre-trial matters in this case are referred to the above-named United States Magistrate Judge, including but not limited to: (1) conduct of a scheduling conference and entry of a scheduling order pursuant to Fed. R. Civ. P. 16, (2) hearing and disposition of all non-dispositive motions or applications, (3) supervision of discovery, and (4) supervision of all procedural matters involving the aforementioned or involving the preparation of the case or any matter therein for consideration by the District Judge. The Magistrate Judge shall also hear and report upon dispositive motions for the consideration of the District Judge pursuant to 28 U.S.C. Section 636(b)(1)(B) and (C). All motions or applications shall be filed with the Clerk and made returnable before the Magistrate Judge. The parties are encouraged to consider the provisions of 28 U.S.C. Section 636(c) governing consent to either partial or complete disposition of the case, including trial if necessary, by the Magistrate Judge. Consent forms are available from the office of the Magistrate Judge or the office of the Clerk of Court. IT IS SO ORDERED. Issued by Hon. Richard J. Arcara on 4/26/2019. (LAS) (Entered: 04/26/2019)
04/29/2019	<u>7</u>	ORDER. Scheduling Conference set for 6/25/2019 12:00 PM before Hon. Leslie G. Foschio. Signed by Hon. Leslie G. Foschio on 4/29/2019. (SDW) (Entered: 04/29/2019)
05/30/2019	<u>8</u>	MOTION to Adjourn Rule 16 Conference by U. S. Department of Justice. (Attachments: # <u>1</u> Declaration)(Cerrone, Michael) (Entered: 05/30/2019)
05/30/2019	<u>9</u>	TEXT ORDER granting <u>8</u> Motion to Adjourn scheduling conference. Adjourned to 7/30/2019 at 11:30 a.m. Issued by Hon. Leslie G. Foschio on 5/30/2019. (SDW) (Entered: 05/30/2019)
05/30/2019		Set/Reset Hearings: Scheduling Conference set for 7/30/2019 11:30 AM before Hon. Leslie G. Foschio, adjourned from 6/25/2019. (SDW) (Entered: 05/30/2019)
07/30/2019	<u>10</u>	Minute Entry for proceedings held before Hon. Leslie G. Foschio: Scheduling Conference held on 7/30/2019. Dft to provide proposed Vaughn Index and related dispositive dates. Pltf shall advise the court if objections to such proposed dates will be filed. Appearances: Pltf: Michael Kuzman, Esq. w/ Plaintiff, Dft: AUSA Michael Cerrone (Court Reporter FTR Gold.) (SDW) (Entered: 07/30/2019)
08/16/2019	<u>11</u>	CONSENT to Jurisdiction by US Magistrate Judge by Nathaniel J. Buckley, U. S. Department of Justice. Case reassigned to Magistrate Hon. Leslie G. Foschio. Signed by Hon. Richard J. Arcara on 8/15/2019. (KLH) (Entered: 08/16/2019)
08/20/2019	<u>12</u>	SCHEDULING ORDER (Please Note: This docket text may <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.) Defendant shall file its Vaughn filing, whether in declaration format or otherwise, on or before 12/20/2019. Dispositive Motions due by 12/20/2019. Signed by Hon. Leslie G. Foschio on 8/20/2019. (SDW) (Entered: 08/20/2019)
12/20/2019	<u>13</u>	MOTION for Summary Judgment by U. S. Department of Justice.(Cerrone, Michael) (Entered: 12/20/2019)

12/20/2019	<u>14</u>	MEMORANDUM IN SUPPORT re <u>13</u> MOTION for Summary Judgment by U. S. Department of Justice. (Cerrone, Michael) (Entered: 12/20/2019)
12/20/2019	<u>15</u>	DECLARATION signed by David M. Hardy re <u>14</u> Memorandum in Support, <u>13</u> MOTION for Summary Judgment filed by U. S. Department of Justice . (Attachments: # <u>1</u> Exhibit A-L)(Cerrone, Michael) (Entered: 12/20/2019)
12/20/2019	<u>16</u>	STATEMENT OF FACTS by U. S. Department of Justice Related document: <u>13</u> Motion for Summary Judgment. (Cerrone, Michael) (Entered: 12/20/2019)
01/06/2020	<u>17</u>	PLEASE DISREGARD-SEE DKT. 18. ORDER re <u>13</u> MOTION for Summary Judgment filed by U. S. Department of Justice. Responses due by 2/3/2020. Replies due by 2/28/2020. Signed by Hon. Leslie G. Foschio on 1/6/2020. (SDW) Modified on 1/6/2020 (SDW). (Entered: 01/06/2020)
01/06/2020	<u>18</u>	TEXT ORDER re <u>13</u> MOTION for Summary Judgment filed by U. S. Department of Justice. Responses due by 3/6/2020. Replies due by 3/31/2020. Issued by Hon. Leslie G. Foschio on 1/6/2020. (SDW) (Entered: 01/06/2020)
03/05/2020	<u>19</u>	First MOTION for Summary Judgment by Nathaniel J. Buckley.(Kuzma, Michael) (Entered: 03/05/2020)
03/05/2020	<u>20</u>	MEMORANDUM/BRIEF re <u>19</u> First MOTION for Summary Judgment by Nathaniel J. Buckley. (Kuzma, Michael) (Entered: 03/05/2020)
03/05/2020	<u>21</u>	AFFIDAVIT re <u>20</u> Memorandum/Brief by Nathaniel J. Buckley. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Kuzma, Michael) (Entered: 03/05/2020)
03/05/2020	<u>22</u>	STATEMENT OF FACTS by Nathaniel J. Buckley Related document: <u>19</u> Motion for Summary Judgment. (Kuzma, Michael) (Entered: 03/05/2020)
03/23/2020	<u>23</u>	MOTION for Extension of Time to File Response/Reply by U. S. Department of Justice. (Attachments: # <u>1</u> Declaration with Ex. A)(Cerrone, Michael) (Entered: 03/23/2020)
03/25/2020	<u>24</u>	TEXT ORDER granting <u>23</u> Motion for Extension of Time to File Response/Reply. Reply re <u>13</u> MOTION for Summary Judgment due by 5/29/2020. Deft response to First MOTION for Summary Judgment <u>19</u> due by 5/29/2020.Issued by Hon. Leslie G. Foschio on 3/25/2020. (SDW) (Entered: 03/25/2020)
05/15/2020	<u>25</u>	MOTION for Extension of Time to File Response/Reply as to <u>19</u> First MOTION for Summary Judgment by U. S. Department of Justice.(Cerrone, Michael) (Entered: 05/15/2020)
05/15/2020	<u>26</u>	DECLARATION signed by Michael S. Cerrone re <u>25</u> MOTION for Extension of Time to File Response/Reply as to <u>19</u> First MOTION for Summary Judgment filed by U. S. Department of Justice . (Attachments: # <u>1</u> Attachment)(Cerrone, Michael) (Entered: 05/15/2020)
05/18/2020	<u>27</u>	TEXT ORDER granting <u>25</u> Motion for Extension of Time to File Response/Reply re <u>19</u> First MOTION for Summary Judgment. Responses due by 8/31/2020. Issued by Hon. Leslie G. Foschio on 5/18/2020. (SDW) (Entered: 05/18/2020)
08/28/2020	<u>28</u>	REPLY/RESPONSE to re <u>19</u> First MOTION for Summary Judgment , <u>13</u> MOTION for Summary Judgment (<i>Reply Memorandum of Law</i>) filed by U. S. Department of Justice. (Cerrone, Michael) (Entered: 08/28/2020)
08/28/2020	<u>29</u>	DECLARATION signed by Michael G. Seidel re <u>19</u> First MOTION for Summary Judgment , <u>20</u> Memorandum/Brief filed by U. S. Department of Justice . (Cerrone, Michael) (Entered: 08/28/2020)
11/18/2021	<u>30</u>	DECISION and ORDER GRANTING in part and DENYING in part <u>13</u> Defendant's Motion for Summary Judgment; GRANTING in part and DENYING in part <u>19</u> Plaintiff's Motion for Summary Judgment. Defendant must either, WITHIN 21 DAYS, provide additional documentation permitting the court to determine whether FOIA Exemption 3 protects the release of information on Bates 51, or provide such information to the Plaintiff. SO ORDERED. Signed by Hon. Leslie G. Foschio on 11/18/2021. (TAH) (Entered: 11/18/2021)

12/08/2021	<u>31</u>	DECLARATION signed by Michael G. Seidel re <u>30</u> Order on Motion for Summary Judgment,, filed by U. S. Department of Justice . (Cerrone, Michael) (Entered: 12/08/2021)
12/16/2021	<u>32</u>	AMENDED DECISION AND ORDER re <u>30</u> Decision and Order on Motions for Summary Judgment (Dkts. 13 and 19) is amended solely to correct several typographical errors. SO ORDERED. Hon. Leslie G. Foschio on 12/16/2021. (TAH) (Entered: 12/16/2021)
09/28/2023	<u>33</u>	DECISION AND ORDER: Despite Defendant's removal of the application of several FOIA Exemptions from Bates-stamped page 51 listed in the <i>Vaughn</i> Index, page 51 remains partially exempt from disclosure pursuant to other FOIA Exemptions. With the entry of this Decision and Order, the only remaining issues to be decided are whether Plaintiff has substantially prevailed in this action and is thus entitled to an award of attorney fees. Plaintiff is thus ORDERED to show he has substantially prevailed in this FOIA action and is entitled to an award of costs, including attorney fees, incurred in connection with this action within twenty (20) days of this Decision and Order, after which Defendant shall file any response within ten (10) days . Oral argument shall be at the court's discretion. SO ORDERED. Signed by Hon. Leslie G. Foschio on 9/28/2023. (TAH) (Entered: 09/28/2023)
10/18/2023	<u>34</u>	DECLARATION signed by Michael Kuzma re <u>33</u> Decision and Order,, filed by Nathaniel J. Buckley . (Kuzma, Michael) (Entered: 10/18/2023)
10/30/2023	<u>35</u>	MEMORANDUM IN OPPOSITION re <u>34</u> Declaration (<i>Defendant's Memorandum of Law in Opposition to Plaintiff's Request for Attorney's Fees</i>) by U. S. Department of Justice. (Cerrone, Michael) (Entered: 10/30/2023)