

**U.S. District Court  
Eastern District of Virginia – (Alexandria)  
CIVIL DOCKET FOR CASE #: 1:23-cv-00760-TSE-WEF**

Flora et al v. Department of the Army  
Assigned to: District Judge T. S. Ellis, III  
Referred to: Magistrate Judge William E. Fitzpatrick  
Cause: 05:552 Freedom of Information Act

Date Filed: 06/12/2023  
Date Terminated: 11/13/2023  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****Francine Jupiter**

represented by **Jay Jupiter**  
Jay Jupiter  
Pob 15127  
Alexandria, VA 22309  
703-360-9761  
Fax: 815-550-1463  
Email: [jupiter@usa.net](mailto:jupiter@usa.net)  
**ATTORNEY TO BE NOTICED**

**Plaintiff****Shana Flora**

represented by **Jay Jupiter**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant****Department of the Army**

represented by **Matthew J. Mezger**  
DOJ-USAO  
United States Attorney's Office  
Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, VA 22314  
703-299-3700  
Email: [matthew.mezger@usdoj.gov](mailto:matthew.mezger@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
06/12/2023	<u>1</u>	Complaint <i>Flora&amp;Jupiter</i> ( Filing fee \$ 402, receipt number AVAEDC-8976951.), filed by Shana Flora. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit)(Jupiter, Jay) (Entered: 06/12/2023)
06/12/2023	<u>2</u>	Proposed Summons re <u>1</u> Complaint <i>Ft. Belvoir</i> by Shana Flora. (Jupiter, Jay) (Entered: 06/12/2023)
06/12/2023	<u>3</u>	Proposed Summons re <u>1</u> Complaint <i>USA</i> by Shana Flora. (Jupiter, Jay) (Entered: 06/12/2023)
06/12/2023	<u>4</u>	Proposed Summons <i>Redstone</i> by Shana Flora. (Jupiter, Jay) (Entered: 06/12/2023)
06/12/2023		Initial Case Assignment to District Judge T. S. Ellis, III and Magistrate Judge William E. Fitzpatrick. (swil) (Entered: 06/14/2023)
06/13/2023	<u>5</u>	Proposed Summons <i>Redstone</i> by Shana Flora. (Jupiter, Jay) (Entered: 06/13/2023)
06/13/2023	<u>6</u>	Proposed Summons <i>AttyG</i> by Shana Flora. (Jupiter, Jay) (Entered: 06/13/2023)
06/13/2023	<u>7</u>	Civil Cover Sheet by Shana Flora. (Jupiter, Jay) (Entered: 06/13/2023)

06/14/2023	<u>8</u>	Summons Issued as to Department of the Army, U.S. Attorney and U.S. Attorney General NOTICE TO ATTORNEY: Please remove the headers and print two duplexed copies of the electronically issued summons for each Defendant. Please serve one copy of the summons and a copy of the Complaint upon each Defendant. Please ensure that your process server returns the service copy (executed or unexecuted) to your attention and electronically file it using the filing events, Summons Returned Executed as to USA or Summons Returned Unexecuted as to USA. (Attachments: # <u>1</u> Summons Notice)(swil) (Entered: 06/14/2023)
06/27/2023	<u>9</u>	Certificate Reporting Service by Shana Flora. Department of the Army served on 6/20/2023, answer due 8/21/2023. (Attachments: # <u>1</u> Exhibit USPS Tracking, # <u>2</u> Exhibit USPS Mail Receipt)(Jupiter, Jay) (Entered: 06/27/2023)
06/27/2023	<u>10</u>	Certificate Reporting Service by Shana Flora. (Attachments: # <u>1</u> Exhibit USPS Tracking)(Jupiter, Jay) (Entered: 06/27/2023)
06/27/2023	<u>11</u>	Certificate Reporting Service by Shana Flora. (Attachments: # <u>1</u> Exhibit USPS Tracking)(Jupiter, Jay) (Entered: 06/27/2023)
07/11/2023	<u>12</u>	NOTICE of Appearance by Matthew J. Mezger on behalf of Department of the Army (Mezger, Matthew) (Entered: 07/11/2023)
07/11/2023	<u>13</u>	Certificate Reporting Service by Department of the Army. All Defendants. (Mezger, Matthew) (Entered: 07/11/2023)
07/11/2023	<u>14</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>1</u> Complaint by Department of the Army. (Attachments: # <u>1</u> Proposed Order)(Mezger, Matthew) (Entered: 07/11/2023)
07/12/2023	<u>15</u>	ORDERED that the motion is GRANTED; and it is further ORDERED that Defendant's time to respond to the Complaint is extended to August 16, 2023 in re <u>14</u> Consent MOTION for Extension of Time to File Response/Reply. Signed by Magistrate Judge William E. Fitzpatrick on 7/12/2023. (swil) (Entered: 07/13/2023)
08/16/2023	<u>16</u>	ANSWER to Complaint by Department of the Army.(Mezger, Matthew) (Entered: 08/16/2023)
08/17/2023	<u>17</u>	<b>**VACATED PURSUANT TO ECF 25 ** SCHEDULING ORDER: Initial Pretrial Conference set for 9/20/2023 at 11:00 AM in Alexandria Courtroom 500 before Magistrate Judge William E. Fitzpatrick. Discovery due by 2/16/2024. Final Pretrial Conference set for 3/21/2024 at 04:00 PM in Alexandria Courtroom 900 before District Judge T. S. Ellis III (If the parties do not file dispositive motions). Final Pretrial Conference set for 5/23/2024 at 04:00 PM in Alexandria Courtroom 900 before District Judge T. S. Ellis III (If the parties do file dispositive motions). Signed by District Judge T. S. Ellis, III on 8/17/2023. (Attachments: # <u>1</u> Magistrate Consent Form, # <u>2</u> Pretrial Notice) (tran) Modified docket text on 11/14/2023 (tran). (Entered: 08/17/2023)</b>
08/24/2023	<u>18</u>	MOTION to Vacate <u>17</u> Scheduling Order,, by Department of the Army. (Attachments: # <u>1</u> Proposed Order)(Mezger, Matthew) (Entered: 08/24/2023)
08/24/2023	<u>19</u>	Memorandum in Support re <u>18</u> MOTION to Vacate <u>17</u> Scheduling Order,, filed by Department of the Army. (Attachments: # <u>1</u> Exhibit DEX 1)(Mezger, Matthew) (Entered: 08/24/2023)
08/24/2023	<u>20</u>	Notice of Hearing Date re <u>19</u> Memorandum in Support, <u>18</u> MOTION to Vacate <u>17</u> Scheduling Order,, (Mezger, Matthew) (Entered: 08/24/2023)
08/25/2023		Set Deadline as to <u>18</u> MOTION to Vacate <u>17</u> Scheduling Order. Motion Hearing set for 9/15/2023 at 10:00 AM in Alexandria Courtroom 900 before District Judge T. S. Ellis III. (wgar, ) (Entered: 08/25/2023)
09/05/2023	<u>21</u>	Memorandum in Opposition re <u>18</u> MOTION to Vacate <u>17</u> Scheduling Order,, filed by Shana Flora. (Attachments: # <u>1</u> Exhibit Motion, # <u>2</u> Proposed Order, # <u>3</u> Exhibit)(Jupiter, Jay) (Entered: 09/05/2023)
09/08/2023	<u>22</u>	REPLY to Response to Motion re <u>18</u> MOTION to Vacate <u>17</u> Scheduling Order,, filed by Department of the Army. (Attachments: # <u>1</u> Exhibit DEX 2)(Mezger, Matthew)

		(Entered: 09/08/2023)
09/13/2023	<u>23</u>	<i>Proposed Joint</i> Discovery Plan by Department of the Army.(Mezger, Matthew) (Entered: 09/13/2023)
09/15/2023	<u>24</u>	Minute Entry for proceedings held before District Judge T. S. Ellis, III: Motion Hearing held on 9/15/2023 re <u>18</u> MOTION to Vacate <u>17</u> Scheduling Order, filed by Department of the Army Jay Jupiter appeared on behalf of the plaintiff. Matthew Mezger appeared on behalf of the defendant. Matter argued. Court to issue an order vacating the scheduling order <u>17</u> . Defendant's briefs due October 3, 2023, with Responses governed by the rules, and <b>Summary Judgment Hearing set for 11/3/2023 at 02:00 PM</b> in Alexandria Courtroom 900 before District Judge T. S. Ellis III. Order to follow. Court Reporter: T. Harris (tran) (Entered: 09/15/2023)
09/15/2023	<u>25</u>	<b>ORDERED</b> that Defendant's Motion is <b>GRANTED</b> and the Court's initial scheduling order <u>18</u> is <b>VACATED</b> . It is further <b>ORDERED</b> that the parties shall file any motions for summary judgment by <b>October 3, 2023</b> . The briefing schedule will proceed according to Local rule 7. Oral argument will be held, if necessary, on <b>November 3, 2023 at 2:00 pm</b> . Signed by District Judge T. S. Ellis, III on 9/15/2023. (tran) Modified docket text on 11/14/2023 (tran). (Entered: 09/15/2023)
10/02/2023	<u>26</u>	MOTION for Summary Judgment by Department of the Army. (Mezger, Matthew) (Entered: 10/02/2023)
10/02/2023	<u>27</u>	Memorandum in Support re <u>26</u> MOTION for Summary Judgment filed by Department of the Army. (Attachments: # <u>1</u> Exhibit DEX 1, # <u>2</u> Exhibit DEX 2, # <u>3</u> Exhibit DEX 3, # <u>4</u> Exhibit DEX 4, # <u>5</u> Exhibit DEX 5, # <u>6</u> Exhibit DEX 6, # <u>7</u> Exhibit DEX 7, # <u>8</u> Exhibit DEX 8, # <u>9</u> Exhibit DEX 9, # <u>10</u> Exhibit DEX 10, # <u>11</u> Exhibit DEX 11, # <u>12</u> Exhibit DEX 12, # <u>13</u> Exhibit DEX 13, # <u>14</u> Exhibit DEX 14)(Mezger, Matthew) (Entered: 10/02/2023)
10/02/2023	<u>28</u>	Notice of Hearing Date re <u>27</u> Memorandum in Support, <u>26</u> MOTION for Summary Judgment (Mezger, Matthew) (Entered: 10/02/2023)
10/02/2023		Set Deadline as to <u>26</u> MOTION for Summary Judgment. Motion Hearing set for 11/3/2023 at 10:00 AM in Alexandria Courtroom 900 before District Judge T. S. Ellis III. (jlan) (Entered: 10/02/2023)
10/13/2023	<u>29</u>	Memorandum in Opposition re <u>26</u> MOTION for Summary Judgment filed by Shana Flora. (Attachments: # <u>1</u> Exhibit Exhibits)(Jupiter, Jay) (Entered: 10/13/2023)
10/13/2023	<u>30</u>	Memorandum in Opposition re <u>26</u> MOTION for Summary Judgment filed by Francine Jupiter. (Jupiter, Jay) (Entered: 10/13/2023)
10/19/2023	<u>31</u>	REPLY to Response to Motion re <u>26</u> MOTION for Summary Judgment filed by Department of the Army. (Attachments: # <u>1</u> Exhibit DEX 15)(Mezger, Matthew) (Entered: 10/19/2023)
10/20/2023		Reset Deadlines as to <u>26</u> MOTION for Summary Judgment . <b>Motion Hearing reset for 11/3/2023 at 02:00 PM</b> in Alexandria Courtroom 900 before District Judge T. S. Ellis III. (tran) (Entered: 10/20/2023)
11/03/2023	<u>32</u>	Minute Entry for proceedings held before District Judge T. S. Ellis, III: Motion Hearing held on 11/3/2023 re <u>26</u> MOTION for Summary Judgment filed by Department of the Army. Jay Jupiter appeared on behalf of the plaintiff. Matthew Mezger appeared on behalf of the defendant. Matter argued. <u>26</u> Motion –GRANTED. Court will further sever the case plaintiff has joint and will review in camera unredacted exhibit 14. Defendant to submit ex parte under seal exhibit 14 for court to review. Order to follow. Court Reporter: T. Harris (tran) (Entered: 11/03/2023)

11/03/2023	<u>33</u>	<b>ORDERED</b> that defendant's motion for summary judgment <u>26</u> is <b>GRANTED IN PART</b> and Plaintiff Jupiter's case is <b>DISMISSED</b> . It is further <b>ORDERED</b> that the government is <b>DIRECTED</b> to provide an unredacted copy of the OER support forms, Gov't Exhibit 14, for an in-camera review by the Court by <b>Monday, November 13, 2023 at 5:00 pm</b> . Signed by District Judge T. S. Ellis, III on 11/3/2023. (tran) (Entered: 11/03/2023)
11/07/2023	<u>34</u>	NOTICE by Department of the Army re <u>33</u> Order on Motion for Summary Judgment, <i>of Ex Parte Delivery of Defendant's Exhibit 14</i> (Mezger, Matthew) (Entered: 11/07/2023)
11/13/2023	<u>35</u>	<b>ORDERED</b> that the Army's motion for summary judgment <u>26</u> is <b>GRANTED</b> . Signed by District Judge T. S. Ellis, III on 11/13/2023. (tran) (Entered: 11/14/2023)