

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:23-cv-01041-ACR**

HERITAGE FOUNDATION et al v. U.S. DEPARTMENT OF DEFENSE

Assigned to: Judge Ana C. Reyes
Cause: 05:552 Freedom of Information Act

Date Filed: 04/13/2023

Date Terminated: 01/25/2024

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

HERITAGE FOUNDATION

represented by **Samuel Everett Dewey**
CHAMBERS OF SAMUEL EVERETT DEWEY, LLC
2200 12th Court North
Apt. 609
Arlington, VA 22201
(703) 261-4194
Email: [samueledewey@sedchambers.com](mailto:samuLEDewey@sedchambers.com)
ATTORNEY TO BE NOTICED

Plaintiff

MIKE HOWELL

represented by **Samuel Everett Dewey**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

U.S. DEPARTMENT OF DEFENSE

represented by **Douglas C. Dreier**
U.S. ATTORNEY'S OFFICE FOR THE DISTRICT OF COLUMBIA
601 D Street NW
Washington, DC 20053
(202) 252-2551
Email: douglas.dreier@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/13/2023	<u>1</u>	COMPLAINT against U.S. DEPARTMENT OF DEFENSE (Filing fee \$ 402 receipt number ADCDC-9998688) filed by HERITAGE FOUNDATION, MIKE HOWELL. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Exhibit 1, # <u>6</u> Exhibit 2, # <u>7</u> Exhibit 3, # <u>8</u> Exhibit 4, # <u>9</u> Exhibit 5)(Dewey, Samuel) (Entered: 04/13/2023)
04/14/2023		Case Assigned to Judge Ana C. Reyes. (zcb) (Entered: 04/14/2023)
04/14/2023	<u>2</u>	SUMMONS (3) Issued Electronically as to U.S. DEPARTMENT OF DEFENSE, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent)(zcb) (Entered: 04/14/2023)
05/17/2023	<u>3</u>	NOTICE of Appearance by Douglas C. Dreier on behalf of U.S. DEPARTMENT OF DEFENSE (Dreier, Douglas) (Entered: 05/17/2023)
05/17/2023	<u>4</u>	ANSWER to Complaint by U.S. DEPARTMENT OF DEFENSE.(Dreier, Douglas) (Entered: 05/17/2023)

05/19/2023		MINUTE ORDER: Plaintiffs filed this Freedom of Information Act ("FOIA") action on April 13, 2023. Dkt 1. Defendant filed its Answer on May 17, 2023. Dkt. 4. Cases filed under FOIA are exempt from the requirements of Federal Rule of Civil Procedure 26(f) and Local Civil Rule 16.3. <i>See</i> LCvR 16.3(b)(10). Accordingly, it is hereby ORDERED that the parties shall meet and confer and file a Joint Status Report on or before May 31, 2023. The Joint Status Report should address, among other things: (1) the status of Plaintiffs' FOIA request; (2) the anticipated number of documents responsive to Plaintiffs' FOIA request; (3) the anticipated date(s) for release of the documents requested by Plaintiffs; (4) whether a motion for a stay is likely under <i>Open America v. Watergate Special Prosecution Force</i> , 547 F.2d 605 (D.C. Cir. 1976); and (5) whether the parties anticipate summary judgment briefing and, if so, a proposed briefing schedule. Counsel shall not contact Chambers directly concerning scheduling or other matters, as Chambers personnel will not handle questions relating to the status or scheduling of pending matters, except in case of an emergency. In an emergency, Chambers can be reached at (202) 354-3350. Signed by Judge Ana C. Reyes on 5/19/2023. (lcjo) Modified on 5/22/2023 (zcdw). (Entered: 05/19/2023)
05/22/2023		Set/Reset Deadlines/Hearings: Joint Status Report due by 5/31/2023. (zcdw) (Entered: 05/22/2023)
05/31/2023	<u>5</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Text of Proposed Order)(Dreier, Douglas) (Entered: 05/31/2023)
06/02/2023		MINUTE ORDER. Upon consideration of the parties' <u>5</u> Joint Status Report, and the entire record, it is ORDERED that the parties shall file a further joint status report or before June 30, 2023, apprising the Court of the status of this case and proposing a briefing schedule governing dispositive motions, if necessary. Signed by Judge Ana C. Reyes on 6/2/2023. (lcjo) (Entered: 06/02/2023)
06/04/2023		Set/Reset Deadlines/Hearings: Joint Status Report due by 6/30/2023. (zcdw) (Entered: 06/04/2023)
06/07/2023		ENTERED IN ERROR.....MINUTE ORDER: Upon consideration of the parties' 36 Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report or before June 22, 2023. Signed by Judge Ana C. Reyes on 6/7/23. (lcas) Modified on 6/7/2023 (zcdw). (Entered: 06/07/2023)
06/30/2023	<u>6</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Text of Proposed Order)(Dreier, Douglas) (Entered: 06/30/2023)
07/05/2023		MINUTE ORDER. Upon consideration of the parties' <u>6</u> Joint Status Report, it is ORDERED that Defendant shall file its motion for summary judgment on or before September 5, 2023; Plaintiffs shall file their combined cross-motion for summary judgment and opposition on or before October 5, 2023; Defendant shall file its combined opposition and reply on or before November 6, 2023; and Plaintiffs shall file their reply on or before November 20, 2023. Signed by Judge Ana C. Reyes on 7/5/2023. (lcjo) (Entered: 07/05/2023)
07/16/2023		Set/Reset Deadlines/Hearings: Defendant's Summary Judgment motion due by 9/5/2023. Response to Motion for Summary Judgment due by 10/5/2023. Reply to Motion for Summary Judgment due by 11/6/2023.Plaintiff's Cross Motion due by 10/5/2023. Response to Cross Motion due by 11/6/2023. Reply to Cross Motion due by 11/20/2023. (zcdw) (Entered: 07/16/2023)
09/05/2023	<u>7</u>	MOTION for Summary Judgment by U.S. DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration of Mark H. Herrington, # <u>4</u> Text of Proposed Order)(Dreier, Douglas) (Entered: 09/05/2023)
10/05/2023	<u>8</u>	Memorandum in opposition to re <u>7</u> Motion for Summary Judgment filed by HERITAGE FOUNDATION, MIKE HOWELL. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration of Samuel Everett Dewey, # <u>3</u> Exhibit Dewey Decl. Ex. 1)(Dewey, Samuel) (Entered: 10/05/2023)
10/05/2023	<u>9</u>	Cross MOTION for Summary Judgment by HERITAGE FOUNDATION, MIKE HOWELL. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration of Samuel Everett Dewey, # <u>3</u> Exhibit Decl. 1)(Dewey, Samuel) (Entered: 10/05/2023)

11/06/2023	<u>10</u>	Memorandum in opposition to re <u>9</u> Motion for Summary Judgment filed by U.S. DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Statement of Facts – Response, # <u>2</u> Text of Proposed Order)(Dreier, Douglas) (Entered: 11/06/2023)
11/06/2023	<u>11</u>	REPLY to opposition to motion re <u>7</u> MOTION for Summary Judgment – <i>Duplicate of ECF No. 10</i> filed by U.S. DEPARTMENT OF DEFENSE. (Dreier, Douglas) (Entered: 11/06/2023)
12/19/2023		MINUTE ORDER. The parties are ORDERED to contact Judge Reyes's Courtroom Deputy, Chashawn White (chashawn_white@dcd.uscourts.gov), to schedule a hearing on the pending cross-motions for summary judgment. Signed by Judge Ana C. Reyes on 12/19/2023. (lcacr1) (Entered: 12/19/2023)
12/20/2023		NOTICE of Hearing on Cross Motions <u>7</u> , <u>9</u> for Summary Judgment: Motion Hearing set for 1/5/2024 at 3:00 PM in Courtroom 12 before Judge Ana C. Reyes. (zcdw) (Entered: 12/20/2023)
01/02/2024		MINUTE ORDER. The Court has reviewed the parties' cross-motions for summary judgment. While whether a request for records relating to "dining in" the White House Mess covers records relating to "carry-out," "delivery," and/or "billing statements" is food for thought, it does not require the Court's intervention to resolve. The parties, if acting in good faith, should be able to settle this question between themselves. The Court ORDERS the parties to meet and confer in person on or before January 5, 2024, to resolve this dispute. If the parties cannot resolve this issue between themselves, the Court will hold the argument scheduled for January 5, 2024. Counsel should note, however, that if the Court determines either side is acting in bad faith or making a frivolous argument, it will enter a show cause order on sanctions. Signed by Judge Ana C. Reyes on 1/2/2024. (lcacr1) (Entered: 01/02/2024)
01/04/2024	<u>12</u>	Joint MOTION to Vacate Notice of Hearing on Motion by U.S. DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Text of Proposed Order)(Dreier, Douglas) (Entered: 01/04/2024)
01/04/2024		MINUTE ORDER. Upon consideration of the parties' <u>12</u> Joint Motion to Vacate Hearing, and the entire record, it is hereby ORDERED that the Joint Motion is GRANTED, and it is further ORDERED that the hearing set for January 5, 2024 is VACATED. Signed by Judge Ana C. Reyes on 1/4/2024. (lcacr1) (Entered: 01/04/2024)
01/24/2024	<u>13</u>	STIPULATION of Dismissal by U.S. DEPARTMENT OF DEFENSE. (Dreier, Douglas) (Entered: 01/24/2024)