

**U.S. District Court
 District of Columbia (Washington, DC)
 CIVIL DOCKET FOR CASE #: 1:21-cv-01319-RDM**

MOUNTGORDON v. UNITED STATES COAST GUARD
 Assigned to: Judge Randolph D. Moss
 Cause: 05:552 Freedom of Information Act

Date Filed: 05/19/2021
 Date Terminated: 04/18/2024
 Jury Demand: None
 Nature of Suit: 895 Freedom of Information Act
 Jurisdiction: U.S. Government Defendant

Plaintiff

HILARY MOUNTGORDON

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V.

Defendant

UNITED STATES COAST GUARD

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Date Filed	#	Docket Text
05/04/2021	<u>1</u>	COMPLAINT against UNITED STATES COAST GUARD (Filing fee \$ 402, receipt number 4616105591) filed by HILARY MOUNTGORDON. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Civil Cover Sheet)(ztd) (Entered: 05/19/2021)

05/19/2021	<u>2</u>	SUMMONS (3) Issued as to UNITED STATES COAST GUARD, U.S. Attorney and U.S. Attorney General (ztd) (Additional attachment(s) added on 6/1/2021: # <u>1</u> Summons, # <u>2</u> Summons) (zsb). (Entered: 05/19/2021)
05/21/2021	<u>3</u>	STANDING ORDER: The parties are hereby ORDERED to comply with the directives set forth in the attached Standing Order. See document for details. Signed by Judge Randolph D. Moss on 5/21/2021. (lcrdm3) (Entered: 05/21/2021)
06/01/2021	<u>4</u>	NEW Request For Pro Se Electronic Noticing by HILARY MOUNTGORDON (ztd) (Entered: 06/08/2021)
06/01/2021	<u>5</u>	NOTICE of Change of Address by HILARY MOUNTGORDON (ztd) (Entered: 06/08/2021)
06/01/2021	<u>6</u>	MOTION for CM/ECF Password by HILARY MOUNTGORDON. (ztd) (Entered: 06/08/2021)
07/22/2021	<u>7</u>	ANSWER to <u>1</u> Complaint, by UNITED STATES COAST GUARD.(McBride, Patricia) (Entered: 07/22/2021)
07/22/2021		MINUTE ORDER: Upon consideration of Hilary Mountgordon's motion for CM/ECF password, Dkt. <u>6</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that, on or before August 20, 2021, the parties shall confer and file a joint status report addressing (1) any documents still to be produced pursuant to FOIA; (2) an anticipated schedule for processing and producing any such documents; and (3) any substantive areas of disagreement between the parties. It is FURTHER ORDERED that the parties shall appear telephonically for an Initial Scheduling Conference on August 25, 2021, at 3:00 p.m., before Judge Randolph D. Moss. The parties can obtain a teleconference number and access code from the Deputy Clerk prior to the conference. Signed by Judge Randolph D. Moss on 07/22/2021. (lcrdm3) (Entered: 07/22/2021)
07/23/2021		Set/Reset Deadlines/Hearings: Joint Status Report due by 8/20/2021. Initial Scheduling Conference set for 8/25/2021, at 3:00 PM, by telephone, before Judge Randolph D. Moss. (kt) (Entered: 07/23/2021)
08/23/2021	<u>8</u>	STATUS REPORT by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 08/23/2021)
08/25/2021		Minute Entry for proceedings held before Judge Randolph D. Moss: Telephonic Initial Scheduling Conference held on 8/25/2021. The parties informed the Court that they are working toward a resolution of this matter. For the reasons stated on the record, a Joint Status Report is due by 11/19/2021. (Court Reporter: Nancy Meyer.) (kt) (Entered: 08/25/2021)
11/17/2021	<u>9</u>	Joint STATUS REPORT by UNITED STATES COAST GUARD. (Attachments: # <u>1</u> Exhibit)(McBride, Patricia) (Entered: 11/17/2021)
11/22/2021		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>9</u> , it is hereby ORDERED that the parties shall file a further status report, with a proposed briefing schedule for any outstanding disputes, on or before January 13, 2022. Signed by Judge Randolph D. Moss on 11/22/2021. (lcrdm3) (Entered: 11/22/2021)
01/13/2022	<u>10</u>	Joint STATUS REPORT by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 01/13/2022)
01/13/2022		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>10</u> , it is hereby ORDERED that (1) Defendant shall file its motion for summary judgment on or before April 29, 2022; (2) Plaintiff shall file her opposition and cross-motion for summary judgment on or before May 27, 2022; and (3) Defendant shall file its reply in support of summary judgment and opposition to Plaintiffs cross-motion on or before June 24, 2022. Signed by Judge Randolph D. Moss on 1/13/2022. (lcrdm3) (Entered: 01/13/2022)
01/13/2022	<u>11</u>	Amended STATUS REPORT by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 01/13/2022)
01/19/2022		MINUTE ORDER: Upon consideration of the parties' amended joint status report, Dkt. <u>11</u> , it is hereby ORDERED that (1) Defendant shall file its motion for summary

		judgment on or before March 29, 2022; (2) Plaintiff shall file her opposition and cross-motion for summary judgment on or before May 27, 2022; and (3) Defendant shall file its reply in support of summary judgment and opposition to Plaintiff's cross-motion on or before June 24, 2022. Signed by Judge Randolph D. Moss on 1/19/2022. (lcrdm3) (Entered: 01/19/2022)
03/25/2022	<u>12</u>	MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 03/25/2022)
03/26/2022		MINUTE ORDER: Upon consideration for the motion for extension, Dkt. <u>12</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that the government shall file its motion for summary judgment on or before April 15, 2022. Signed by Judge Randolph D. Moss on 03/26/2022. (lcrdm3) (Entered: 03/26/2022)
04/12/2022	<u>13</u>	MOTION for Extension of Time to by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 04/12/2022)
04/13/2022		MINUTE ORDER: Upon consideration of the motion for extension, Dkt. <u>13</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that (1) the government shall file its motion for summary judgment on or before May 20, 2022; (2) Plaintiff shall file her opposition and any cross-motion for summary judgment on or before June 30, 2022; and (3) the government shall file its reply on or before July 28, 2022. Signed by Judge Randolph D. Moss on 04/13/2022. (lcrdm3) (Entered: 04/13/2022)
05/20/2022	<u>14</u>	MOTION for Summary Judgment by UNITED STATES COAST GUARD. (Attachments: # <u>1</u> Declaration)(McBride, Patricia) (Entered: 05/20/2022)
05/26/2022	<u>15</u>	FOX/NEAL ORDER: Plaintiff is hereby ORDERED to file a response to Defendant's motion for summary judgment, Dkt. <u>14</u> , on or before June 30, 2022. See document for details. Signed by Judge Randolph D. Moss on 05/26/2022. (lcrdm3) (Entered: 05/26/2022)
06/30/2022	<u>16</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>14</u> MOTION for Summary Judgment by HILARY MOUNTGORDON. (MOUNTGORDON, HILARY) (Entered: 06/30/2022)
07/05/2022		MINUTE ORDER: Upon consideration of the consent motion for extension of time, Dkt. <u>16</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Plaintiff shall file her response to Defendant's motion for summary judgment, along with any cross-motion for summary judgment, on or before August 31, 2022. Signed by Judge Randolph D. Moss on 07/05/2022. (lcrdm3) (Entered: 07/05/2022)
08/31/2022	<u>17</u>	NOTICE of Appearance by Timothy Parlatore on behalf of HILARY MOUNTGORDON (Parlatore, Timothy) (Entered: 08/31/2022)
08/31/2022	<u>18</u>	MOTION for Vaughn Index , MOTION to Hold in Abeyance <i>the pending motion for Summary Judgment</i> by HILARY MOUNTGORDON. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Parlatore, Timothy) (Entered: 08/31/2022)
09/17/2022		MINUTE ORDER: Plaintiff has filed a motion for a Vaughn Index, Dkt. <u>18</u> , but has failed to apprise the Court of the government's position on the motion or of any efforts to meet and confer with the government in advance of the motion's filing. Accordingly, the motion is denied without prejudice. Signed by Judge Randolph D. Moss on 09/17/2022. (lcrdm3) Modified on 9/19/2022 to correct typo(kt). (Entered: 09/17/2022)
10/04/2022		MINUTE ORDER: On September 17, 2022, the Court denied without prejudice Plaintiff's motion for Vaughn Index, Dkt. <u>18</u> , because Plaintiff failed to apprise the Court of the government's position on the motion or of any efforts to meet and confer with the government in advance of the motion's filing. <i>See</i> Min. Order (Sept. 17, 2022). Plaintiff has not renewed the motion, nor has she responded to the government's pending motion for summary judgment, Dkt. <u>14</u> , to which her response was due on or before August 31, 2022, <i>see</i> Min. Order (July 5, 2022). If Plaintiff intends to continue to pursue this case, she is hereby ORDERED to file her opposition to the government's motion for summary judgment, Dkt. <u>14</u> , on or before October 18, 2022. If she fails to

		do so or to otherwise indicate some intention to pursue this matter, the Court will dismiss the case for failure to prosecute. Signed by Judge Randolph D. Moss on 10/04/2022. (lcrdm3) (Entered: 10/04/2022)
10/06/2022	<u>19</u>	NOTICE of Appearance by Maryam Hadden on behalf of HILARY MOUNTGORDON (Hadden, Maryam) (Entered: 10/06/2022)
10/06/2022	<u>20</u>	Amended MOTION for Vaughn Index <i>Opposed by Defendant</i> , Second MOTION to Hold in Abeyance re Order,,, Set Deadlines,,, <i>Hold in Abeyance the pending Summary Judgment Motion</i> by HILARY MOUNTGORDON. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Hadden, Maryam) (Entered: 10/06/2022)
10/07/2022		<p>MINUTE ORDER: This matter is before the Court on Plaintiff's motion for Vaughn Index, Dkt. <u>20</u> . Plaintiff indicates that the Vaughn Index is necessary here because "Plaintiff cannot effectively take a position on the Motion for Summary Judgment filed by the Defendant in the absence of adequately specific information." Dkt. [20-1] at 12. Plaintiff advises, moreover, that Defendant opposes this motion.</p> <p>The D.C. Circuit has held that because "it is the function, not the form of the [Vaughn] index that is important," <i>Keys v. U.S. Dep't of Just.</i>, 830 F.2d 337, 349 (D.C. Cir. 1987), an agency may submit a declaration "in lieu of the index itself," so long as the declaration adequately identifies the records withheld and the agency's reasons for doing so, <i>Judicial Watch, Inc. v. Food & Drug Admin.</i>, 449 F.3d 141, 146 (D.C. Cir. 2006). <i>See also Edelman v. Sec. & Exch. Comm'n</i>, 302 F. Supp. 3d 421, 424 (D.D.C. 2018). Regardless of the form, the evidentiary material must provide "the reviewing court a reasonable basis to evaluate [its] claim of privilege." <i>Gallant v. NLRB</i>, 26 F.3d 168, 173 (D.C. Cir. 1994) (internal quotation marks omitted). The Court notes, moreover, that the existing declaration describes each of the five documents requested by Plaintiff, describes the contents of those documents, identifies any redactions or withholdings of those documents, and indicates the FOIA exemption applicable to each exemption or redaction. <i>See</i> Dkt. 14-1 at 1-7. It is unclear what additional information plaintiff believes that a Vaughn index would provide, and plaintiff offers no explanation for why the relevant information cannot be conveyed in a declaration, particularly with respect to a motion, like defendant's pending motion, that involves only five documents.</p> <p>Because a FOIA defendant is entitled to rely on a Vaughn index, a declaration, or a combination of the two to carry its burden, the Court will deny Plaintiff's motion. That does not mean, however, that defendant's declaration is sufficient and that defendant has carried its burden. Rather, the Court merely concludes that the adequacy of defendant's declaration will be better addressed through plaintiff's opposition to defendant's motion for summary judgment and cross-motion for summary judgment, if any, and that the adequacy of defendant's motion does not turn on the mere form of defendant's evidentiary submission.</p> <p>Plaintiff's motion for Vaughn Index, Dkt. <u>20</u> , is accordingly DENIED and Plaintiff shall file any response to Defendant's motion for summary judgment on or before October 31, 2022.Signed by Judge Randolph D. Moss on 10/07/2022. (lcrdm3) (Entered: 10/07/2022)</p>
10/31/2022	<u>21</u>	Consent MOTION for Extension of Time to <i>Respond to MSJ and Cross-Move</i> by HILARY MOUNTGORDON. (Hadden, Maryam) (Entered: 10/31/2022)
10/31/2022		MINUTE ORDER: Upon consideration of Plaintiff's consent motion for extension of time, Dkt. <u>21</u> , it is hereby ORDERED that the motion is GRANTED. It is further ORDERED that Plaintiff shall file any response to Defendant's motion for summary judgment on or before November 7, 2022. Signed by Judge Randolph D. Moss on 10/31/2022. (lcrdm3) (Entered: 10/31/2022)
11/07/2022	<u>22</u>	RESPONSE re <u>14</u> MOTION for Summary Judgment filed by HILARY MOUNTGORDON. (Attachments: # <u>1</u> Exhibit Exh A - Affidavit, # <u>2</u> Text of Proposed Order)(Hadden, Maryam) (Entered: 11/07/2022)
11/07/2022	<u>23</u>	Cross MOTION for Summary Judgment by HILARY MOUNTGORDON. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit Exh A - Affidavit, # <u>3</u> Text of Proposed Order)(Hadden, Maryam) (Entered: 11/07/2022)

11/14/2022	<u>24</u>	REPLY to opposition to motion re <u>14</u> Motion for Summary Judgment filed by UNITED STATES COAST GUARD. (McBride, Patricia) Modified to add link on 11/15/2022 (znmw). (Entered: 11/14/2022)
11/14/2022	25	Memorandum in opposition to re <u>23</u> Motion for Summary Judgment filed by UNITED STATES COAST GUARD. (See Docket Entry <u>24</u> to view document). (znmw) (Entered: 11/15/2022)
08/30/2023	<u>26</u>	MEMORANDUM OPINION AND ORDER: For the reasons provided in the attached Memorandum Opinion and Order, it is hereby ORDERED that: (1) Defendant's motion for summary judgment, Dkt. <u>14</u> , is GRANTED in part and DENIED in part and (2) Plaintiff's cross-motion for summary judgment, Dkt. <u>22</u> , <u>23</u> , is GRANTED in part and DENIED in part. It is further ORDERED that the parties shall file on or before October 30, 2023, a joint status report advising the Court as to any further productions and proposing next steps in this litigation. See document for details. Signed by Judge Randolph D. Moss on 08/30/2023. (lcrdm3) (Entered: 08/30/2023)
10/17/2023	<u>27</u>	Joint STATUS REPORT by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 10/17/2023)
10/19/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. 27, the parties are hereby ORDERED to file a further joint status report on or before December 7, 2023. Signed by Judge Randolph D. Moss on 10/19/2023. (lcrdm3) (Entered: 10/19/2023)
12/07/2023	<u>28</u>	Joint STATUS REPORT by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 12/07/2023)
12/08/2023		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>28</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before February 7, 2024. Signed by Judge Randolph D. Moss on 12/8/2023. (lcrdm3) (Entered: 12/08/2023)
02/07/2024	<u>29</u>	Joint STATUS REPORT by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 02/07/2024)
02/08/2024		MINUTE ORDER: Upon consideration of the parties' joint status report, Dkt. <u>29</u> , it is hereby ORDERED that the parties shall file a further joint status report on or before April 17, 2024. Signed by Judge Randolph D. Moss on 2/8/2024. (lcrdm3) (Entered: 02/08/2024)
04/16/2024	<u>30</u>	STIPULATION of Dismissal by UNITED STATES COAST GUARD. (McBride, Patricia) (Entered: 04/16/2024)
04/18/2024		MINUTE ORDER: Upon consideration of the parties' stipulation of dismissal, Dkt. <u>30</u> , it is hereby ORDERED that this case is DISMISSED without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). The Clerk of Court is directed to terminate this case. Signed by Judge Randolph D. Moss on 4/18/2024. (lcrdm3) (Entered: 04/18/2024)