

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:21-cv-02821-APM**

AMERICAN TRANSPARENCY v. U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES

Assigned to: Judge Amit P. Mehta

Related Case: [1:23-cv-03413-APM](#)

Cause: 05:552 Freedom of Information Act

Date Filed: 10/25/2021

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

AMERICAN TRANSPARENCY

doing business as

OPENTHEBOOKS.COM

represented by **Paul J. Orfanedes**
JUDICIAL WATCH, INC.
425 Third Street, SW
Suite 800
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Fax: (202) 646-5199
Email: porfanedes@judicialwatch.org
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

represented by **Diana Viggiano Valdivia**
DOJ-USAO
601 D Street NW
Civil Division
Washington, DC 20530
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TERMINATED: 08/08/2022
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TERMINATED: 10/23/2023
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Date Filed	#	Docket Text
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10/25/2021	<u>1</u>	COMPLAINT against U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (Filing fee \$ 402 receipt number ADCDC-8820898) filed by AMERICAN TRANSPARENCY, D/B/A/ OPENTHEBOOKS.COM. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons for US Attorney for DC, # <u>3</u> Summons for US Attorney General, # <u>4</u> Summons for U.S. Department of Health and Human Services)(Orfanedes, Paul) (Entered: 10/25/2021)
10/25/2021	<u>2</u>	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by AMERICAN TRANSPARENCY, D/B/A/ OPENTHEBOOKS.COM (Orfanedes, Paul) (Entered: 10/25/2021)
10/26/2021		Case Assigned to Judge Amit P. Mehta. (znmg) (Entered: 10/26/2021)
10/26/2021	<u>3</u>	SUMMONS (3) Issued Electronically as to U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Notice and Consent)(znmg) (Entered: 10/26/2021)
11/02/2021	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 10/28/2021. Answer due for ALL FEDERAL DEFENDANTS by 11/27/2021. (Attachments: # <u>1</u> Declaration of David Rothstein)(Orfanedes, Paul) (Entered: 11/02/2021)
11/02/2021	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 11/02/21. (Attachments: # <u>1</u> Declaration of David Rothstein)(Orfanedes, Paul) (Entered: 11/02/2021)
11/02/2021	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES served on 11/1/2021 (Attachments: # <u>1</u> Declaration of David Rothstein)(Orfanedes, Paul) (Entered: 11/02/2021)
11/29/2021	<u>7</u>	NOTICE of Appearance by Diana Viggiano Valdivia on behalf of U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (Valdivia, Diana) (Entered: 11/29/2021)
11/29/2021	<u>8</u>	ANSWER to Complaint by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.(Valdivia, Diana) (Entered: 11/29/2021)
11/29/2021	<u>9</u>	ORDER. Both a Complaint and an Answer are now before the court in this FOIA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before December 13, 2021. The Joint Status Report shall include (1) the status of Plaintiff's FOIA request; (2) the anticipated number of documents responsive to Plaintiff's FOIA request; (3) the anticipated date(s) for release of the documents requested by Plaintiff; (4) whether a motion for stay is likely under Open America v. Watergate Special Prosecution Force, 547 F.2d 605 (D.C. Cir. 1976); and (5) whether the parties anticipate summary judgment briefing and, if so, a proposed briefing schedule. See attached Order for details. Signed by Judge Amit P. Mehta on 11/29/2021. (lcapm2) (Entered: 11/29/2021)
12/13/2021	<u>10</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 12/13/2021)
12/14/2021		MINUTE ORDER. The parties shall file an additional Joint Status Report by February 10, 2022, which updates the court on the processing and production of responsive records. Signed by Judge Amit P. Mehta on 12/14/2021. (Entered: 12/14/2021)
02/10/2022	<u>11</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 02/10/2022)
02/11/2022		MINUTE ORDER. The parties shall file an additional Joint Status Report by May 11, 2022, and every 90 days thereafter, which updates the court on the processing and production of responsive records. Signed by Judge Amit P. Mehta on 2/11/2022. (lcapm2) (Entered: 02/11/2022)
05/11/2022	<u>12</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Valdivia, Diana) (Entered: 05/11/2022)

08/08/2022	<u>13</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Sean Michael Tepe on behalf of U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Substituting for attorney Diana Valdivia (Tepe, Sean) (Entered: 08/08/2022)
08/10/2022	<u>14</u>	Joint STATUS REPORT by AMERICAN TRANSPARENCY. (Orfanedes, Paul) (Entered: 08/10/2022)
11/09/2022	<u>15</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Tepe, Sean) (Entered: 11/09/2022)
02/07/2023	<u>16</u>	Joint STATUS REPORT by AMERICAN TRANSPARENCY. (Orfanedes, Paul) (Entered: 02/07/2023)
05/08/2023	<u>17</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Tepe, Sean) (Entered: 05/08/2023)
08/07/2023	<u>18</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Tepe, Sean) (Entered: 08/07/2023)
10/23/2023	<u>19</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Kaitlin Kerry Eckrote on behalf of U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Substituting for attorney Sean M. Tepe (Eckrote, Kaitlin) (Entered: 10/23/2023)
11/06/2023	<u>20</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Eckrote, Kaitlin) (Entered: 11/06/2023)
11/07/2023	<u>21</u>	ORDER entering the briefing schedule proposed in the parties' <u>20</u> Joint Status Report. The schedule for further proceedings in this matter is as follows: (1) Defendant's Motion for Summary Judgment is due on or before January 26, 2024; (2) Plaintiffs Opposition to Defendant's Motion and Cross-Motion for Summary Judgment is due on or before March 11, 2024; (3) Defendant's Reply in Support of Summary Judgment and Opposition to Plaintiff's Cross-Motion for Summary Judgment is due on or before April 10, 2024; and (4) Plaintiff's Reply in Support of its Cross-Motion for Summary Judgment is due on or before April 24, 2024. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 11/7/23. (lcapm2) (Entered: 11/07/2023)
01/04/2024	<u>22</u>	Consent MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Eckrote, Kaitlin) (Entered: 01/04/2024)
01/05/2024	<u>23</u>	ORDER granting <u>22</u> Consent Motion for Extension of Time to File Motion for Summary Judgment. Defendant's Motion for Summary Judgment shall be due by February 23, 2024, Plaintiff's Opposition and Cross-Motion for Summary Judgment shall be due by March 25, 2024, Defendant's Reply and Opposition to Plaintiff's Cross-Motion for Summary Judgment shall be due by April 24, 2024, and Plaintiff's Reply shall be due by May 8, 2024. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 1/5/24. (lcapm2) (Entered: 01/05/2024)
01/05/2024		Set/Reset Deadlines: Summary Judgment motions due by 2/23/2024. Response to Motion for Summary Judgment/Cross motions due by 3/25/2024. Reply to Motion for Summary Judgment/Response to Cross motions due by 4/24/2024. Reply to Cross Motions due by 5/8/2024. (smc) (Entered: 01/05/2024)
02/23/2024	<u>24</u>	MOTION for Summary Judgment by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Exhibit Garcia-Malene Declaration, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit Freire Declaration, # <u>8</u> Text of Proposed Order)(Eckrote, Kaitlin) (Entered: 02/23/2024)
03/20/2024	<u>25</u>	Unopposed MOTION for Extension of Time to <i>File Summary Judgment Opposition and Cross-Motion</i> by AMERICAN TRANSPARENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Orfanedes, Paul) (Entered: 03/20/2024)
03/21/2024	<u>26</u>	ORDER granting Plaintiff's <u>25</u> Unopposed Motion for Extension of Time. Plaintiff's opposition to Defendant's Motion for Summary Judgment and any Cross-Motion shall be due by April 25, 2024, Defendant's Reply and Cross-Motion Opposition shall be due by May 24, 2024, and Plaintiff's Reply shall be due by June 7, 2024. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 3/21/24. (lcapm2) (Entered: 03/21/2024)

03/21/2024		Set/Reset Deadlines: Plaintiff's opposition to Defendant's Motion for Summary Judgment and any Cross-Motion shall be due by April 25, 2024, Defendant's Reply and Cross-Motion Opposition shall be due by May 24, 2024, and Plaintiff's Reply shall be due by June 7, 2024. (zbnb) (Entered: 03/21/2024)
04/23/2024	<u>27</u>	Memorandum in opposition to re <u>24</u> Motion for Summary Judgment, filed by AMERICAN TRANSPARENCY. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration of Amber Todoroff with Exhibits, # <u>3</u> Text of Proposed Order)(Orfanedes, Paul) (Entered: 04/23/2024)
04/23/2024	<u>28</u>	Cross MOTION for Summary Judgment by AMERICAN TRANSPARENCY. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration Amber Todoroff with Exhibits, # <u>4</u> Text of Proposed Order)(Orfanedes, Paul) (Entered: 04/23/2024)
05/06/2024	<u>29</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>28</u> Cross MOTION for Summary Judgment , <u>24</u> MOTION for Summary Judgment by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Eckrote, Kaitlin) (Entered: 05/06/2024)
05/07/2024		MINUTE ORDER granting Defendant's <u>29</u> Consent Motion for Extension of Time. Defendant's response shall be due by June 24, 2024. Signed by Judge Amit P. Mehta on 5/7/24. (lcapm2) (Entered: 05/07/2024)
05/09/2024		Set/Reset Deadlines/Hearings: Response to <u>28</u> due by 6/24/2024. (zcdw) (Entered: 05/09/2024)
06/14/2024	<u>30</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>28</u> Cross MOTION for Summary Judgment , <u>24</u> MOTION for Summary Judgment by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Eckrote, Kaitlin) (Entered: 06/14/2024)
06/17/2024		MINUTE ORDER granting <u>30</u> Consent Motion for an Extension of Time. Defendant's reply in support of its Motion for Summary Judgment and opposition to Plaintiff's cross-motion shall be due by August 8, 2024. Plaintiff's reply in support of its cross-motion shall be due by August 22, 2024. Signed by Judge Amit P. Mehta on 6/17/24. (lcapm2) (Entered: 06/17/2024)
06/18/2024		Set/Reset Deadlines: Defendant's Reply in support of its Motion for Summary Judgment due by 8/8/2024. Plaintiff's reply in support of its cross motion due by 8/22/2024. (zakb) (Entered: 06/18/2024)
07/29/2024	<u>31</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>28</u> Cross MOTION for Summary Judgment , <u>24</u> MOTION for Summary Judgment by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Text of Proposed Order)(Eckrote, Kaitlin) (Entered: 07/29/2024)
07/30/2024		MINUTE ORDER granting Defendant's <u>31</u> Consent Motion for Extension of Time. Defendant's Reply in Support of its Motion for Summary Judgment and Opposition to Plaintiff's Cross-Motion for Summary Judgment shall be due by August 29, 2024, and Plaintiff's Cross-Motion Reply shall be due by September 12, 2024. Signed by Judge Amit P. Mehta on 7/30/24. (lcapm2) (Entered: 07/30/2024)
08/01/2024		Set/Reset Deadlines/Hearings: Defendant's Reply in support of Motion for Summary Judgment due by 8/29/2024. Plaintiff's Reply in support due by 9/12/2024. (zakb) (Entered: 08/01/2024)
08/29/2024	<u>32</u>	RESPONSE re <u>28</u> Cross MOTION for Summary Judgment filed by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration, # <u>3</u> Declaration, # <u>4</u> Declaration, # <u>5</u> Exhibit)(Eckrote, Kaitlin) (Entered: 08/29/2024)
08/29/2024	<u>33</u>	REPLY to opposition to motion re <u>24</u> MOTION for Summary Judgment filed by U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Declaration, # <u>3</u> Declaration, # <u>4</u> Declaration, # <u>5</u> Exhibit)(Eckrote, Kaitlin) (Entered: 08/29/2024)

09/09/2024	<u>34</u>	Unopposed MOTION for Extension of Time to File Response/Reply by AMERICAN TRANSPARENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Orfanedes, Paul) (Entered: 09/09/2024)
09/10/2024		MINUTE ORDER granting <u>34</u> Unopposed Motion for Extension of Time. Plaintiff's Reply in Support of its Cross-Motion for Summary Judgment shall be due by October 12, 2024. Signed by Judge Amit P. Mehta on 9/10/2024. (lcapm2) (Entered: 09/10/2024)
09/13/2024		Set/Reset Deadlines: Plaintiff's Reply in support of Cross Motion for Summary Judgment due by 10/12/2024. (zakb) (Entered: 09/13/2024)