

**U.S. District Court
Southern District of New York (White Plains)
CIVIL DOCKET FOR CASE #: 7:23-cv-00845-KMK**

Libit v. United States Military Academy et al
Assigned to: Judge Kenneth M. Karas
Cause: 05:552 Freedom of Information Act

Date Filed: 02/01/2023
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Daniel Libit

represented by **Jennifer Ann Borg**
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ATTORNEY TO BE NOTICED

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TERMINATED: 07/25/2023

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V.

Defendant

United States Military Academy

represented by **Elizabeth J. Kim**
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Defendant

Army West Point Athletic Association

represented by **Mikhail Shah**
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703-474-6500

Date Filed	#	Docket Text
02/01/2023	<u>1</u>	COMPLAINT against ARMY WEST POINT ATHLETIC ASSOCIATION, United States Military Academy. (Filing Fee \$ 402.00, Receipt Number ANYSDC-27280615) Document filed by Daniel Libit. (Attachments: # <u>1</u> Exhibit AWPAA Registration Statement, # <u>2</u> Exhibit AWPAA Form 1023, # <u>3</u> Exhibit West Point FOIA Request, # <u>4</u> Exhibit West Point Response, # <u>5</u> Exhibit AWPAA FOIA Request, # <u>6</u> Exhibit AWPAA Response, # <u>7</u> Exhibit West Point Administrative Appeal, # <u>8</u> Exhibit April 4 2022 Correspondence, # <u>9</u> Exhibit Second West Point FOIA Request, # <u>10</u> Exhibit Template FOIA Request, # <u>11</u> Exhibit West Point Response, # <u>12</u> Exhibit AWPAA Response, # <u>13</u> Exhibit Third West Point FOIA Request, # <u>14</u> Exhibit West Point Response, # <u>15</u> Exhibit Second West Point Administrative Appeal, # <u>16</u> Exhibit West Point Response, # <u>17</u> Exhibit West Point Response, # <u>18</u> Exhibit Third West Point Administrative Appeal, # <u>19</u> Exhibit West Point Response).(Schulz, David) (Entered: 02/01/2023)
02/01/2023	<u>2</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Military Academy, re: <u>1</u> Complaint,,,. Document filed by Daniel Libit..(Schulz, David) (Entered: 02/01/2023)
02/01/2023	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Army West Point Athletic Association, re: <u>1</u> Complaint,,,. Document filed by Daniel Libit..(Schulz, David) (Entered: 02/01/2023)
02/01/2023	<u>4</u>	CIVIL COVER SHEET filed..(Schulz, David) (Entered: 02/01/2023)
02/02/2023		***NOTICE TO ATTORNEY REGARDING PARTY MODIFICATION. Notice to attorney David A. Schulz. The party information for the following party/parties has been modified: ARMY WEST POINT ATHLETIC ASSOCIATION. The information for the party/parties has been modified for the following reason/reasons: party name was entered in all caps. (sj) (Entered: 02/02/2023)
02/02/2023		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney David A. Schulz. The following case opening statistical information was erroneously selected/entered: County code Orange. The following correction(s) have been made to your case entry: the County code has been modified to New York. (sj) (Entered: 02/02/2023)
02/02/2023		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Kenneth M. Karas. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions ..(sj) (Entered: 02/02/2023)
02/02/2023		Magistrate Judge Andrew E. Krause is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (sj) (Entered: 02/02/2023)
02/02/2023		Case Designated ECF. (sj) (Entered: 02/02/2023)
02/02/2023	<u>5</u>	ELECTRONIC SUMMONS ISSUED as to United States Military Academy. (sj) (Entered: 02/02/2023)
02/02/2023	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to Army West Point Athletic Association. (sj) (Entered: 02/02/2023)

03/01/2023	<u>7</u>	AFFIDAVIT OF SERVICE (FOIA CASE). United States Military Academy served on 2/15/2023, answer due 3/17/2023. Service was made by Mail. Document filed by Daniel Libit..(Schulz, David) (Entered: 03/01/2023)
03/01/2023	<u>8</u>	AFFIDAVIT OF SERVICE. Army West Point Athletic Association served on 2/15/2023, answer due 3/8/2023. Service was made by Mail. Document filed by Daniel Libit..(Schulz, David) (Entered: 03/01/2023)
03/06/2023	<u>9</u>	FIRST LETTER MOTION for Extension of Time to File Answer addressed to Judge Kenneth M. Karas from Mikhail A. Shah dated March 6, 2023. Document filed by Army West Point Athletic Association..(Shah, Mikhail) (Entered: 03/06/2023)
03/06/2023	<u>10</u>	ORDER: granting <u>9</u> Letter Motion for Extension of Time to Answer re <u>9</u> FIRST LETTER MOTION for Extension of Time to File Answer. addressed to Judge Kenneth M. Karas from Mikhail A. Shah dated March 6, 2023. Granted. SO ORDERED. Army West Point Athletic Association answer due 3/31/2023. (Signed by Judge Kenneth M. Karas on 3/05/2023) (ama) (Entered: 03/06/2023)
03/15/2023	<u>11</u>	NOTICE OF APPEARANCE by Elizabeth J. Kim on behalf of United States Military Academy..(Kim, Elizabeth) (Entered: 03/15/2023)
03/15/2023	<u>12</u>	LETTER MOTION for Extension of Time <i>for the Government to Respond to the Complaint</i> addressed to Judge Kenneth M. Karas from Elizabeth J. Kim dated March 15, 2023. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 03/15/2023)
03/16/2023	<u>13</u>	ORDER granting <u>12</u> Letter Motion for Extension of Time. Granted. So Ordered. (Signed by Judge Kenneth M. Karas on 3/15/23) (yv) (Entered: 03/16/2023)
03/16/2023		Set/Reset Deadlines: United States Military Academy answer due 4/17/2023. (yv) (Entered: 03/16/2023)
03/23/2023	<u>14</u>	LETTER MOTION for Extension of Time to File Answer addressed to Judge Kenneth M. Karas from Mikhail Shah dated March 23, 2023. Document filed by Army West Point Athletic Association..(Shah, Mikhail) (Entered: 03/23/2023)
03/23/2023	<u>15</u>	ORDER: granting <u>14</u> Letter Motion for Extension of Time to Answer re <u>14</u> LETTER MOTION for Extension of Time to File Answer. addressed to Judge Kenneth M. Karas from Mikhail Shah dated March 23, 2023. Granted, but there will be no further such extensions. SO ORDERED. Army West Point Athletic Association answer due 4/17/2023. (Signed by Judge Kenneth M. Karas on 3/23/2023) (ama) (Entered: 03/23/2023)
04/17/2023	<u>16</u>	ANSWER to <u>1</u> Complaint,,,. Document filed by Army West Point Athletic Association..(Shah, Mikhail) (Entered: 04/17/2023)
04/17/2023	<u>17</u>	ANSWER to <u>1</u> Complaint,,,. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 04/17/2023)
04/25/2023	<u>18</u>	CALENDAR NOTICE: Please take notice that the above captioned action has been scheduled for an initial conference before the Honorable Kenneth M. Karas, United States District Judge, on Thursday, May 11, 2023 at 2:30 p.m. Counsel shall submit a proposed case management and discovery schedule via ECF by 5 :00 p.m. on the evening before the initial conference. NOTICE OF TELECONFERENCE INFORMATION: Counsel shall call the following number at the designated time: Meeting Dial-In Number (USA toll-free): (888) 363-4749, Access Code: 7702195. Please enter the conference as a guest by pressing the pound sign(#). So Ordered. (Initial Conference set for 5/11/2023 at 02:30 PM before Judge Kenneth M. Karas.) (Signed by Judge Kenneth M. Karas on 4/24/23) (yv) (Entered: 04/25/2023)
05/05/2023	<u>19</u>	NOTICE OF TELECONFERENCE INFORMATION. For the week of May 8, 2023, the Court will hold all civil conferences, hearings, and/or oral arguments in the above-numbered Action by telephone. Counsel shall call the following number at the designated time: Meeting Dial-In Number (USA toll-free): (888) 363-4749 Access Code: 7702195. Please enter the conference as a guest by pressing the pound sign (#). SO ORDERED. (Signed by Judge Kenneth M. Karas on 5/5/23) (yv) (Entered: 05/05/2023)

05/09/2023	<u>20</u>	JOINT LETTER MOTION to Adjourn Conference addressed to Judge Kenneth M. Karas from Elizabeth J. Kim dated May 9, 2023. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 05/09/2023)
05/09/2023	<u>21</u>	ORDER granting <u>20</u> Letter Motion to Adjourn Conference. Granted. The 5/11/23 conference is adjourned to 6/1/23, at 10:00 So Ordered. (Initial Conference set for 6/1/2023 at 10:00 AM before Judge Kenneth M. Karas.) (Signed by Judge Kenneth M. Karas on 5/9/23) (yv) (Entered: 05/09/2023)
05/25/2023	<u>22</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MOTION for Kelsey R. Eberly to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–27790573. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Daniel Libit. (Attachments: # <u>1</u> Affidavit Affidavit in support of motion, # <u>2</u> Exhibit Certificate of good standing, # <u>3</u> Exhibit Certificate of good standing, # <u>4</u> Text of Proposed Order Proposed order granting motion).(Eberly, Kelsey) Modified on 5/25/2023 (dsh). (Entered: 05/25/2023)
05/25/2023		>>>NOTICE REGARDING DEFICIENT MOTION TO APPEAR PRO HAC VICE. Notice to RE–FILE Document No. <u>22</u> MOTION for Kelsey R. Eberly to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–27790573. Motion and supporting papers to be reviewed by Clerk's Office staff... The filing is deficient for the following reason(s): missing Certificate of Good Standing from The Supreme Court of California;. Re–file the motion as a Motion to Appear Pro Hac Vice – attach the correct signed PDF – select the correct named filer/filers – attach valid Certificates of Good Standing issued within the past 30 days – attach Proposed Order.. (dsh) (Entered: 05/25/2023)
05/26/2023	<u>23</u>	NOTICE OF TELECONFERENCE INFORMATION. For the week of May 29, 2023, the Court will hold all civil conferences, hearings, and/or oral arguments in the above–numbered Action by telephone. Counsel shall call the following number at the designated time: Meeting Dial–In Number (USA toll–free): (888) 363–4749 Access Code: 7702195. Please enter the conference as a guest by pressing the pound sign (#). For initial conferences, counsel shall submit a proposed case management and discovery schedule via ECF by 5 p.m. on the evening before the initial conference. SO ORDERED. (Signed by Judge Kenneth M. Karas on 5/26/23) (yv) (Entered: 05/26/2023)
05/26/2023	<u>24</u>	NOTICE OF APPEARANCE by Jennifer Ann Borg on behalf of Daniel Libit..(Borg, Jennifer) (Entered: 05/26/2023)
05/30/2023	<u>25</u>	JOINT LETTER MOTION to Adjourn Conference addressed to Judge Kenneth M. Karas from Elizabeth J. Kim dated May 30, 2023. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 05/30/2023)
05/31/2023	<u>26</u>	ORDER granting <u>25</u> Letter Motion to Adjourn Conference. Granted. The conference is adjourned to 6/21/23, at 10:30. So Ordered. Initial Conference set for 6/21/2023 at 10:30 AM before Judge Kenneth M. Karas. (Signed by Judge Kenneth M. Karas on 5/30/2023) (rro) (Entered: 05/31/2023)
06/14/2023	<u>27</u>	MOTION for Kelsey R. Eberly to Appear Pro Hac Vice . Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Daniel Libit. (Attachments: # <u>1</u> Affidavit Affidavit in support of motion, # <u>2</u> Exhibit Certificate of good standing, # <u>3</u> Exhibit Certificate of good standing, # <u>4</u> Text of Proposed Order Proposed order granting motion).(Eberly, Kelsey) (Entered: 06/14/2023)
06/14/2023		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>27</u> MOTION for Kelsey R. Eberly to Appear Pro Hac Vice. Motion and supporting papers to be reviewed by Clerk's Office staff. The document has been reviewed and there are no deficiencies. (va) (Entered: 06/14/2023)
06/16/2023	<u>28</u>	NOTICE OF TELECONFERENCE INFORMATION: For the week of June 19, 2023, the Court will hold all civil conferences, hearings, and/or oral arguments in the above–numbered Action by telephone. Counsel shall call the following number at the designated time: Meeting Dial–In Number (USA toll–free): (888) 363–4749 Access Code: 7702195. Please enter the conference as a guest by pressing the pound sign (#). Given that much of the Court is operating remotely and has limited mail capability, counsel involved in any pro se cases shall mail a copy of this Notice to or otherwise inform the pro se party of the above teleconference information. Counsel in any pro se

		inmate cases shall ensure that the pro se party is on the line before calling the above-referenced number. For initial conferences, counsel shall submit a proposed case management and discovery schedule via ECF by 5 p.m. on the evening before the initial conference. Any requests for adjournments should be filed as soon as possible and clearly explain why the conference should be adjourned. SO ORDERED. (Signed by Judge Kenneth M. Karas on 6/16/2023) (tg) (Entered: 06/16/2023)
06/20/2023	<u>29</u>	PROPOSED STIPULATION AND ORDER. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 06/20/2023)
06/20/2023	<u>30</u>	STIPULATION AND ORDER ON CONSENT. NOW, THEREFORE, the Parties hereby stipulate and agree that: AWPAA will search for records within its custody and control that are responsive to the Requests addressed to AWPAA as if it were subject to FOIA, and produce responsive, nonexempt records, and will consult with USMA or refer records or requests to USMA for processing as appropriate, pursuant to a production schedule to be agreed upon by the Parties. In response to future FOIA requests addressed to it, by any party, AWPAA will similarly search for responsive records within its custody and control, produce responsive, nonexempt records, as if it were subject to FOIA and all of its procedures, such as the time limits imposed by FOIA, and will consult with USMA or refer records or requests to USMA for processing as appropriate, and will do so unless and until AWPAA or a successor organization obtains a judicial declaration that it is not an agency within the meaning of FOIA. AWPAA reserves its right to seek such a judicial declaration, upon notice to Libit or his counsel, in the future. USMA will search the records within its custody and control that are responsive to the Requests addressed to USMA, and will consult with AWPAA or refer records or requests to AWPAA for processing as appropriate, and produce responsive, non-exempt records, pursuant to a production schedule to be agreed upon by the Parties; After the productions of responsive records are complete, the Parties will promptly meet and confer to determine whether any issues remain for litigation, and if so, propose a schedule for briefing to the Court on any unresolved issues; The Court will retain jurisdiction over the above-captioned case pending the resolution of any unresolved issues. The Parties are directed to provide a status report by 7/20/23. So Ordered. (Signed by Judge Kenneth M. Karas on 6/20/23) (yv) (Entered: 06/20/2023)
06/21/2023	<u>31</u>	ORDER granting <u>27</u> Motion for Kelsey R. Eberly to Appear Pro Hac Vice. (Signed by Judge Kenneth M. Karas on 6/20/2023) (ate) (Entered: 06/21/2023)
07/20/2023	<u>32</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 07/20/2023)
07/21/2023	<u>33</u>	MOTION for Kelsey R. Eberly to Withdraw as Attorney . Document filed by Daniel Libit. (Attachments: # <u>1</u> Affidavit Affidavit in support of motion).(Eberly, Kelsey) (Entered: 07/21/2023)
07/25/2023	<u>34</u>	MEMO ENDORSEMENT on re: <u>32</u> Status Report filed by United States Military Academy. ENDORSEMENT : Granted. So Ordered. (Signed by Judge Kenneth M. Karas on 7/25/23) (yv) (Entered: 07/25/2023)
07/25/2023	<u>35</u>	MEMO ENDORSED ORDER granting <u>33</u> Motion to Withdraw as Attorney. ENDORSEMENT: SO ORDERED. (Attorney Kelsey Rinehart Eberly terminated.) (Signed by Judge Kenneth M. Karas on 7/25/23) (yv) (Entered: 07/25/2023)
08/17/2023	<u>36</u>	LETTER addressed to Judge Kenneth M. Karas from Elizabeth J. Kim dated August 17, 2023 re: Request to adjust the United States Military Academy's production schedule for the period ending on August 18, 2023. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 08/17/2023)
08/17/2023	<u>37</u>	MEMO ENDORSEMENT on re: <u>36</u> Letter Request to adjust the United States Military Academy's production schedule for the period ending on August 18, 2023, filed by United States Military Academy. ENDORSEMENT : Granted. SO ORDERED. (Signed by Judge Kenneth M. Karas on 8/17/23) (yv) (Entered: 08/17/2023)
09/18/2023	<u>38</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 09/18/2023)

09/21/2023	<u>39</u>	MEMO ENDORSEMENT: on re: <u>38</u> Status Report filed by United States Military Academy. ENDORSEMENT: SO ORDERED. (Signed by Judge Kenneth M. Karas on 9/19/2023) (ama) (Entered: 09/21/2023)
11/14/2023	<u>40</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 11/14/2023)
11/15/2023	<u>41</u>	MEMO ENDORSEMENT on re: <u>40</u> Status Report filed by United States Military Academy. ENDORSEMENT: So Ordered. (Signed by Judge Kenneth M. Karas on 11/15/23) (yv) (Entered: 11/15/2023)
01/12/2024	<u>42</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 01/12/2024)
01/16/2024	<u>43</u>	MEMO ENDORSEMENT on re: <u>42</u> Status Report filed by United States Military Academy. ENDORSEMENT : So Ordered. (Signed by Judge Kenneth M. Karas on 1/15/24) (yv) (Entered: 01/16/2024)
03/15/2024	<u>44</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 03/15/2024)
03/18/2024	<u>45</u>	MEMO ENDORSEMENT on re: <u>44</u> Status Report filed by United States Military Academy. ENDORSEMENT: So Ordered. (Signed by Judge Kenneth M. Karas on 3/18/24) (yv) (Entered: 03/18/2024)
05/14/2024	<u>46</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 05/14/2024)
05/15/2024	<u>47</u>	MEMO ENDORSEMENT on re: <u>46</u> Status Report filed by United States Military Academy. ENDORSEMENT: So Ordered. (Signed by Judge Kenneth M. Karas on 5/15/24) (yv) (Entered: 05/15/2024)
07/15/2024	<u>48</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 07/15/2024)
07/18/2024	<u>49</u>	MEMO ENDORSEMENT on re: <u>48</u> Status Report filed by United States Military Academy. ENDORSEMENT: So Ordered. (Signed by Judge Kenneth M. Karas on 7/18/24) (yv) (Entered: 07/18/2024)
09/13/2024	<u>50</u>	STATUS REPORT. Document filed by United States Military Academy..(Kim, Elizabeth) (Entered: 09/13/2024)
09/18/2024	<u>51</u>	MEMO ENDORSEMENT on re: <u>50</u> Status Report filed by United States Military Academy. ENDORSEMENT: So Ordered. (Signed by Judge Kenneth M. Karas on 9/17/24) (yv) (Entered: 09/18/2024)