

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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|--|---|-----------------------|
| Pro Se Pro, LLC, |) | C/A No.: 1:24-cv-2749 |
| |) | |
| 1204 Palm Boulevard |) | |
| Isle of Palms, SC 29451 |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| U.S. Citizenship and Immigration Services, |) | |
| |) | |
| Office of the Chief Counsel |) | |
| 5900 Capital Gateway Drive |) | |
| Mail Stop 2120 |) | |
| Camp Springs, MD 20588-0009, |) | |
| |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMPLAINT

Congress mandated federal agencies respond to requests under the Freedom of Information Act within 20 business days. Defendant U.S. Citizenship and Immigration Services knowingly defies this deadline, claiming a 10-day extension as boilerplate language in each of its initial responses. This suit is Congress’s mechanism to check such conduct. For the reasons below, this Court should order Defendants to respond to Plaintiff’s request and order them to pay reasonable attorney’s fees to incentivize compliance with Congress’s mandatory deadlines.

PARTIES

1. Plaintiff Pro Se Pro, LLC is a limited liability company organized under South Carolina law which has its principal place of business in Isle of Palms, Charleston County, South Carolina.

2. Defendant United States Citizenship and Immigration Services (“USCIS”) is a federal agency within the U.S. Department of Homeland Security that enforces federal laws over immigration benefits. Defendant USCIS is the custodian of the records sought in the Freedom of Information Act (“FOIA”) request.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to FOIA, 5 U.S.C. § 552(a)(4)(B).

4. This Court also has jurisdiction over this action as a federal question under 28 U.S.C. § 1331.

5. This Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.

6. Venue is proper in this District over all claims involving the Freedom of Information Act. 5 U.S.C. § 552(a)(4)(B).

STATUTORY FRAMEWORK

7. FOIA promotes open government by providing every person with a right to request and receive federal agency records. 5 U.S.C. § 552(a)(3)(A).

8. In furtherance of its purpose to encourage open government, FOIA imposes strict deadlines on agencies to provide responsive documents. 5 U.S.C. § 552(a)(6)(A).

9. An agency must comply with a FOIA request by issuing a determination within 20 business days after receipt of the request. 5 U.S.C. § 552(a)(6)(A)(i).

10. The determination “must at least inform the requester of the scope of the documents that the agency will produce, as well as the scope of the documents that the agency plans to withhold under any FOIA exemptions.” *Citizens for Responsibility & Ethics in Wash. v. Fed. Election Comm’n*, 771 F.3d 180, 186 (D.C. Cir. 2013).

11. An agency may be entitled to one ten-day extension of time to respond to a request if it provides written notice to the requester explaining that “unusual circumstances” exist that warrant additional time. 5 U.S.C. § 552(a)(6)(B).
12. An agency shall make available a FOIA public liaison to aid the requestor in limiting the scope of the request so that it may be processed within the statutory time limit. 5 U.S.C. § 552(a)(6)(B)(ii).
13. An agency must immediately notify the requester of its determination whether to comply with a request, and the reasons for it, and of the right of such person to appeal an adverse determination. 5 U.S.C. § 552(a)(6)(B)(ii).
14. An agency’s failure to comply with any timing requirements is deemed constructive denial and satisfies the requester’s requirement to exhaust administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).
15. A FOIA requester who exhausts administrative remedies may petition the court for injunctive and declaratory relief from the agency’s continued withholding of public records. 5 U.S.C. § 552(a)(4)(B).

FACTS

16. Plaintiff Pro Se Pro, LLC (“PSP”) is a legal service provider.
17. PSP, *inter alia*, provides materials to U visa applicants to file *pro se* unreasonable delay cases against USCIS for unreasonable delayed bona fide determinations, work authorization, and wait list parole.
18. PSP on occasion files FOIA requests to provide non-public information to its customers and hold USCIS accountable in the public square.
19. To this end, PSP filed one FOIA requests that USCIS has, unsurprisingly, failed to

respond to in a timely fashion.

20. On April 24, 2024, PSP requested the following information from USCIS:

- All adjudication data for bona fide determinations from June 1, 2021 to present. Specifically, please provide an excel spreadsheet identifying all cases that have received a bona fide determination organized by filing date of the I918 or I918A and decision date of the bona fide determination.

21. On May 9, 2024, USCIS acknowledged PSP's request and assigned it control number

COW2024003462. And it invoked a 10-day extension to respond by stating:

Although USCIS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances. Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Additionally, due to the scope and nature of your request, USCIS will need to locate, compile, and review responsive records from multiple offices, both at headquarters and in the field. USCIS may also need to consult with another agency or other component of the Department of Homeland Security that have a substantial interest in the responsive information. Due to these unusual circumstances, USCIS will invoke a 10-day extension for your request pursuant to 5 U.S.C. § 552(a)(6)(B).

22. This FOIA Request has been pending with USCIS for 106-business days not counting federal holidays or weekends.

FIRST CAUSE OF ACTION
(USCIS - Failure to Respond to Request Within Statutory Timeframe)

23. Plaintiff filed a FOIA request on April 24, 2024.

24. USCIS has unlawfully withheld all requested documents. 5 U.S.C. § 552(a)(6)(A)(i).

25. Plaintiff is entitled to an order compelling USCIS to provide all of the requested documents. 5 U.S.C. § 552(a)(4)(B).

26. Plaintiff is entitled to reasonable attorney's fees and costs even if USCIS settles this claim by producing the documents during litigation. 5 U.S.C. § 552(a)(4)(E)(i).

**SECOND CAUSE OF ACTION
(USCIS - Failure to Produce Responsive Records)**

27. USCIS failed to make reasonable efforts to search for records responsive to Plaintiff's FOIA request, in violation of the Plaintiff's rights under FOIA, including but not limited to 5 U.S.C. § 552(a)(3).

28. USCIS failed to disclose and produce any records responsive to the request, in violation of the Plaintiff's rights to those records under FOIA, including but not limited to 5 U.S.C. § 552(a)(3)(A).

29. USCIS failed to disclose and produce any records responsive to the request without a legal basis for withholding such records, in violation of FOIA, including but not limited to 5 U.S.C. §§ 552(a)(3)(A) and (6)(A).

30. The Plaintiff is entitled to its reasonable attorneys' fees and costs under 5 U.S.C. § 552(a)(4)(E).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that this Court:

31. Expedite its consideration of this action pursuant to 28 U.S.C. § 1657;

32. Find that USCIS's failures to respond or disclose records timely was unlawful;

33. Order USCIS to search for and promptly disclose all records responsive to the Plaintiff's requests; and

34. Award the Plaintiff's attorneys' fees and costs.

September 26, 2024

Respectfully submitted,

s/Brad Banias
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