

US DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

MAR 15 2016

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

By DOUGLAS F. YOUNG, Clerk
Deputy Clerk

ATLASWARE, LLC

PLAINTIFF

V.

5:16-CV- 5063 TLB

SOCIAL SECURITY ADMINISTRATION

DEFENDANT

COMPLAINT DECLARATORY JUDGMENT & INJUNCTIVE RELIEF

Plaintiff Atlasware, LLC, for its Complaint for Declaratory Judgment & Injunctive Relief against Defendant Social Security Administration pursuant to Rule 57 of the Federal Rules of Civil Procedure, and seeking to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552, states:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Atlasware is a limited liability company organized under the laws of the State of Texas and having its principal place of business at 1616 San Pedro St., San Antonio, Texas 78212.

4. Defendant Social Security Administration is an agency of the United States Government and resides in this judicial district. Defendant Social Security Administration has possession, custody, and control of records to which Plaintiff Atlasware seeks access.

STATEMENT OF FACTS

5. On November 6, 2013, Plaintiff Atlasware, by and through its counsel, sent a FOIA request to Defendant Social Security Administration seeking access to the following records:

- a. The first name, middle initial, last name, city, and state of all attorney representatives who are currently representing clients in ongoing social security disability claims.
- b. The first name, middle initial, last name, city, and state of all non-attorney representatives who are currently representing clients in ongoing social security disability claims that are not eligible for direct payment.
- c. The business name, business address, business phone number and business email of all attorney representatives who are currently representing clients in ongoing social security disability claims.
- d. The business name, business address, business phone number and business email of all non-attorney representatives who are currently representing clients in ongoing social security disability claims that are not eligible for direct payment.

In its request for access to records pursuant to the FOIA, Plaintiff Atlasware expressly noted it did “not request any private or home information on the above individuals”. *See Exhibit 1 attached to this Complaint and incorporated herein.*

6. Defendant Social Security Administration denied, in pertinent part, Plaintiff Atlasware’s FOIA request in a letter dated June 12, 2014. *See Exhibit 2 attached to this Complaint and incorporated herein.* Defendant Social Security Administration erroneously claimed that the FOIA request sought “personal

information about other individuals contained in the records” and that “disclosing records containing personal information about named individuals...would be a clearly unwarranted invasion of personal privacy, and the [FOIA] does not require disclosure.” *See* Ex. 2.

7. On June 13, 2014, Plaintiff Atlasware, through its counsel, submitted a timely administrative appeal to the Executive Director for the Office of Privacy and Public Disclosure. In its administrative appeal, Plaintiff Atlasware expressly disclaimed it was seeking “personal, private information of private citizens”. Rather, Plaintiff Atlasware’s administrative appeal demonstrated that Plaintiff sought commercial identifying information of businesses operated for profit. *See* Exhibit 3 attached to this Complaint and incorporated herein.

8. On September 24, 2014, the Executive Director for the Office for the Office of Privacy and Public Disclosure granted Plaintiff Atlasware’s request in part by releasing the phone numbers of the attorney representatives, but wrongfully denied Plaintiff Atlasware’s request for other information regarding the attorney representatives. *See* Exhibit 4 attached to this Complaint and incorporated herein. The Executive Director also wrongfully denied Plaintiff Atlasware’s request for information regarding the non-attorney representatives, and argued that a release of that information would constitute an invasion of privacy. *See* Ex. 4.

COUNT I: VIOLATION OF FOIA

9. Plaintiff Atlasware re-alleges Paragraphs 1 through 8 as if fully stated herein.

10. Defendant Social Security Administration has violated the FOIA by failing to produce records responsive to Plaintiff Atlasware's November 6, 2013 FOIA request.

11. Defendant Social Security Administration, in denying in critical part Plaintiff Atlasware's FOIA request, relied only on FOIA Exemption 6. 5 U.S.C. § 552(b)(6).

12. FOIA Exemption 6 does not apply to the agency records that Defendant Social Security Administration has declined to release, and therefore Plaintiff Atlasware is entitled to an order directing Defendant Social Security Administration to release the requested agency records it has wrongfully withheld.

COUNT II: DECLARATORY JUDGMENT


13. In accordance with Rule 57 of the Federal Rules of Civil Procedure, this Court should declare the rights, status, and other legal relations between Plaintiff Atlasware and Defendant Social Security Administration with respect to the FOIA request, in particular Plaintiff Atlasware's entitlement to the agency documents requested.

14. Plaintiff Atlasware respectfully requests a declaratory judgment in order to settle and afford it relief from uncertainty and insecurity with respect to Defendant Social Security's obligations pursuant to the FOIA.

15. Plaintiff Atlasware further requests that this Court order a "speedy hearing" of this action pursuant to Rule 57 of the Federal Rules of Civil Procedure.

WHEREFORE, Plaintiff Atlasware, LLC respectfully requests that the Court: (1) declare Defendant Social Security Administration's failure to comply with the FOIA to be unlawful; (2) enjoin Defendant Social Security Administration from continuing to withhold un-redacted records responsive to Plaintiff's November 6, 2013 FOIA request; (3) grant judgment pursuant to Fed. R. Civ. P. 57 declaring Defendant's obligation to produce to Plaintiff the requested records; (4) grant Plaintiff an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and, (5) grant Plaintiff such other relief as the Court deems just and proper.

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