

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

_____ )	
PUBLIC CITIZEN, INC., )	
1600 20th Street NW )	
Washington, DC 20009, )	
) )	
Plaintiff, )	Civil Action No. 17-cv-1938
) )	
v. )	<b>COMPLAINT FOR DECLARATORY</b>
) )	<b>AND INJUNCTIVE RELIEF</b>
DEPARTMENT OF LABOR, )	
200 Constitution Avenue NW )	
Washington, DC 20210, )	
) )	
Defendant. )	
_____ )	

**INTRODUCTION**

1. Plaintiff brings this action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the production of records from the Department of Labor (DOL) related to the implementation of Executive Order 13771, entitled “Reducing Regulation and Controlling Regulatory Costs,” and Office of Management and Budget (OMB) guidance implementing that Executive Order.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff Public Citizen, Inc. is a non-profit public-interest organization founded in 1971. Among other things, Public Citizen works to promote openness in government and collects and disseminates information to advance government accountability. Public Citizen submitted the FOIA requests at issue in this case.

4. Defendant DOL is an agency of the United States and the parent agency of the Mine Safety and Health Administration (MSHA), the Occupational Safety and Health Administration (OSHA), and the Office of the Secretary (OSEC). DOL has possession of and control over the records that plaintiff seeks.

### **STATEMENT OF FACTS**

5. On April 12, 2017, Public Citizen submitted FOIA requests to three components within DOL: MSHA, OSHA, and OSEC.

6. The requests sought records related to DOL's implementation of Executive Order 13771 and OMB guidance related to that Executive Order. In particular, each request sought:

Any and all records concerning implementation of Executive Order 13771, entitled "Reducing Regulation and Controlling Regulatory Costs," the February 2, 2017 OMB guidance entitled, "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, Titled 'Reducing Regulation and Controlling Regulatory Costs,'" or the April 5, 2017 Office of Management and Budget (OMB) guidance entitled, "Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs.'"

This request includes both records related to implementation generally and records related to the effect of implementation on any specific rule.

7. In addition, the three requests sought records of communications between OMB (including the Office of Information and Regulatory Affairs) and MSHA, OSHA, and OSEC, respectively, related to or concerning Executive Order 13771, the interim guidance dated February 2, 2017, or the guidance dated April 5, 2017.

8. By letters dated April 17, 2017, DOL acknowledged receipt of Public Citizen's three FOIA requests and provided tracking numbers for all three requests: 828636 (MSHA), 828637 (OSHA), and 828638 (OSEC).

9. On April 24, 2017, DOL sent a second acknowledgment of Public Citizen's FOIA request for records from OSHA.

10. Since April 24, 2017, Public Citizen has received no correspondence from DOL related to these FOIA requests. Public Citizen has received no records in response to these FOIA requests.

11. Under 5 U.S.C. § 552(a)(6)(A)(i), DOL had 20 working days to make a determination with respect to Public Citizen's April 12, 2017, requests. More than 20 working days have passed since Public Citizen submitted the requests, and DOL has not done so.

### **CLAIM FOR RELIEF**

12. Public Citizen has a statutory right to the records it seeks, and there is no legal basis for DOL's failure to disclose them in response to the FOIA request.

13. Public Citizen is entitled to declaratory and injunctive relief compelling the release and disclosure of the requested records.

### **PRAYER FOR RELIEF**

Wherefore, plaintiff requests that this Court:

A. Declare that defendant's failure to provide the requested records in response to plaintiff's FOIA requests is unlawful;

B. Order defendant to make the records responsive to plaintiff's FOIA requests available to plaintiff at no charge;

C. Award plaintiff its costs and reasonable attorney fees; and

D. Grant all other appropriate relief.

Dated: September 22, 2017

Respectfully submitted,

/s/ Sean M. Sherman

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