

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

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
U.S. DEPARTMENT OF DEFENSE,)	
1400 Defense Pentagon)	
Washington, DC 20301,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. (“Plaintiff”) brings this action against Defendant U.S. Department of Defense (“Defendant”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

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 Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

responses it receives and disseminates its findings and responsive records to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of Defense is an agency of the United States Government. Defendant has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 1400 Defense Pentagon, Washington, DC 20301.

STATEMENT OF FACTS

5. On May 15, 2018, Plaintiff submitted a FOIA request to Defendant, seeking the following:

Any and all records regarding, concerning, or related to the contract awarded by the Department of Defense Washington Headquarters Services Office to Stefan Halper on or about September 26, 2016. For purposes of clarification, this award is identified by award **ID** number HQ003416P0148. This request includes, but is not limited to, the following:

Any and all records documenting the scope of the work to be completed pursuant to the contract.

Any and all reports, analysis, abstracts, summaries, or similar records produced pursuant to the contract.

Any and all related records of communication between any official, employee, or representative of the Department of Defense and Mr. Halper and/or any other individual or entity acting on his behalf.

Any and all records of communication between any official, employee, or representative of the Department of Defense and any official, employee, or representative of any other branch, department, agency, or office of the federal government regarding, concerning, or related to the award and/or any work product generated pursuant to the award.

6. By letter dated May 24, 2018, Defendant acknowledged receiving Plaintiff’s request on May 15, 2018 and advised Plaintiff the request had been assigned case number 18-F-0999.

7. As of the date of this Complaint, Defendant has failed to: (i) produce the requested records or demonstrate the records are lawfully exempt from disclosure; (ii) notify

Plaintiff of the scope of any responsive records Defendant intends to produce or withhold and the reasons for any withholdings; or (iii) inform Plaintiff it may appeal any adequately specific, adverse determination.

COUNT I

Violation of FOIA, 5 U.S.C. § 552

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is violating FOIA, and Plaintiff is being irreparably harmed because of Defendant's violation of FOIA. Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with FOIA.

10. To trigger FOIA's administrative exhaustion requirement, Defendant was required to determine whether to comply with Plaintiff's request within the time limits set by FOIA. Accordingly, Defendant's determination was due on or about June 13, 2018. By this date, Defendant was required to: (i) gather and review the requested records; (ii) determine the scope of any responsive records Defendant intends to produce or withhold and immediately notify Plaintiff of its determination and the reasons for any withholdings; and (iii) inform Plaintiff it may appeal any adequately specific, adverse determination. *See, e.g., Citizens for Responsibility and Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 188-89 (D.C. Cir. 2013).

11. Because Defendant failed to determine whether to comply with Plaintiff's request within the time period required by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies. 5 U.S.C. § 552(a)(6)(C)(i).

WHEREFORE, Plaintiff respectfully requests the Court: (1) order Defendant to search for any and all records responsive to Plaintiff's FOIA request and demonstrate it employed

search methods reasonably likely to lead to the discovery of records responsive to the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's request and a Vaughn index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's request; (4) grant Plaintiff an award of attorneys' 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.

Dated: September 13, 2018

Respectfully submitted,

/s/ Paul J. Orfanedes
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