

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

COMMUNICATIONS WORKERS OF)
 AMERICA,)
 501 3rd Street NW)
 Washington, DC 20001,)
)
 Plaintiff,)
)
 v.)
)
 U.S. DEPARTMENT OF LABOR,)
 200 Constitution Avenue NW)
 Washington, DC 20210,)
)
 Defendant.)

Civil Action No. 1:19-cv-1943

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the U.S. Department of Labor to produce records responsive to two FOIA requests.

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 Communications Workers of America (CWA) is a labor union that represents 700,000 workers in private and public sector employment in the United States and Canada. CWA members work in telecommunications and information technology, call centers, the airline industry, news media, broadcast and cable television, education, health care and public service, law enforcement, manufacturing, and other fields. For years, CWA has sought to

improve conditions for call-center employees by bargaining to improve pay and reduce unnecessary work stress while articulating a vision for the workplace that promotes quality customer service. CWA submitted the FOIA requests at issue in this case.

4. Defendant U.S. Department of Labor (DOL) is an agency of the federal government of the United States and has possession of and control over the records CWA seeks.

STATEMENT OF FACTS

FOIA Request 853659

5. On March 7, 2018, CWA submitted a FOIA request to the Wage and Hour Division (WHD) of DOL for all documents and communications used by DOL to create the occupational classification, job descriptions, and federal grade equivalencies for the Customer Service Representative standard occupation series for the revision of the Service Contract Act Directory of Occupations in or about 2015.

6. On March 13, 2018, DOL acknowledged CWA's FOIA request and stated that it had been assigned to WHD with tracking number 853659.

7. More than 20 working days have passed since CWA submitted this FOIA request, and DOL has neither made a final determination nor produced any records in response to this FOIA request.

FOIA Request 853661

8. Also on March 7, 2018, CWA submitted a FOIA request to the Office of the Assistant Secretary for Administration & Management (OASAM) of DOL for all documents and communications used by DOL to create the occupational classification, job descriptions, and federal grade equivalencies for the Customer Service Representative standard occupation series for the revision of the Service Contract Act Directory of Occupations in or about 2015.

9. On March 13, 2018, DOL acknowledged CWA's FOIA request and stated that it had been assigned to OASAM with tracking number 853661.

10. On March 22, 2019, DOL issued a final determination of CWA's FOIA request 853661. Although DOL had initially stated this request had been assigned to OASAM, DOL's final determination stated that WHD was responding to the request. DOL's response stated that WHD had located 2,000 pages of responsive records but was withholding all pages in full under FOIA exemption 7(A). Specifically, DOL stated the information was exempt because disclosure could reasonably be expected to interfere with enforcement proceedings.

11. On May 10, 2019, CWA submitted an administrative appeal challenging DOL's denial of this FOIA request. Specifically, CWA explained that DOL conducted an inadequate search for responsive records, exemption 7(A) did not apply to the requested records, and DOL had not performed a proper segregability review.

12. More than 20 working days have passed since CWA submitted this administrative appeal, and DOL has not made a final determination of its administrative appeal.

FIRST CAUSE OF ACTION

13. CWA has exhausted all administrative remedies with respect to FOIA request 853659 under 5 U.S.C. § 552(a)(6)(C)(i).

14. CWA has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records it requested, and there is no legal basis for DOL's failure to disclose them.

SECOND CAUSE OF ACTION

15. CWA has exhausted all administrative remedies with respect to FOIA request 853661.

16. CWA has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records it requested, and there is no legal basis for DOL's failure to disclose them.

PRAYER FOR RELIEF

WHEREFORE, CWA requests that this Court:

- (1) Declare that DOL's withholding of the requested records is unlawful;
- (2) Order DOL to make the requested records available to CWA at no cost and without delay;
- (3) Award CWA its costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as this Court may deem just and proper.

Dated: June 28, 2019

Respectfully submitted,

/s/ Patrick D. Llewellyn
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