

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA**

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**NOELLE LLAMAS, TALIA LAVIN and** :

**KENNETH KLIPPENSTEIN,** :

*Plaintiffs,* :

**- v. -** :

6:19-cv-1916

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,** :

*Defendant.* :

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**COMPLAINT**

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), to order the production of U.S. Immigration and Customs Enforcement (“ICE”) records related to a series of tweets posted by ICE’s official Twitter account on June 18, 2018 criticizing Plaintiff Talia Lavin and the news media. Defendant ICE has withheld these records despite a properly filed FOIA request.

**PARTIES**

2. Defendant U.S. Immigration and Customs Enforcement (“ICE”) is an agency of the United States with possession and control of the records sought by Plaintiff.
3. Plaintiff Noelle Llamas is a citizen journalist who is assisting plaintiffs Lavin and Klippenstein with research related to ICE for publication in Lavin’s book and Klippenstein’s news reports.
4. Plaintiff Talia Lavin is a journalist, formerly with The New Yorker, and author.

5. Plaintiff Kenneth Klippenstein is the Senior Investigative Reporter at The Young Turks, reporting on the actions of ICE and other government agencies and whose work has been referenced by the New York Times, the Washington Post and other mainstream media outlets.
6. Collectively, Plaintiffs intend to publicly disseminate any records obtained via FOIA to educate the public on the relationship between the government and the news media.

### **JURISDICTION AND VENUE**

7. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).
8. Plaintiff Noelle Llamas's residence is in the Middle District of Florida and therefore venue is appropriate under 5 U.S.C. § 552(a)(4)(B).

### **FACTS**

#### Background of FOIA Request

9. In June 2018, Plaintiff Talia Lavin, then a fact checker for the New Yorker, publicly questioned, via Twitter, whether an ICE employee's tattoo was an Iron Cross, a symbol that has been used by white supremacists.
10. When informed that the tattoo looked more like a Maltese Cross, Lavin immediately deleted the tweet and issued an apology.
11. On June 18, 2018, a series of four tweets were posted on Twitter by ICE's official government twitter account, @ICEgov, regarding the employee.
12. One of ICE's tweets included an official statement titled "ICE STATEMENT REGARDING ERRONEOUS ATTACKS ON ICE EMPLOYEE FOR MILITARY TATTOO" and specifically named Lavin.

13. While Lavin was neither the first nor the only individual to question the provenance of the ICE employee's tattoo, ICE nonetheless singled her and her employer out, stating that "[a]nyone attempting to advance their personal political opinions by baselessly slandering an American hero should be issuing public apologies . . . That includes Lavin and the New Yorker."

#### FOIA Request and Constructive Denial

14. Plaintiffs seek insight into the decision by ICE officials to target a member of the press for public scorn, in order to shed light on the agency's views towards the news media.
15. On August 16, 2019, Plaintiffs submitted a FOIA request to ICE for documents related to the drafting of ICE's series of tweets on June 18, 2018 (the "Request"). (Exhibit A)
16. On August 29, 2019, the Request was acknowledged by ICE but was erroneously identified by ICE as requesting information within an individual's alien file and the Request was subsequently erroneously routed to USCIS. (Exhibit B)
17. On September 17, 2019, Klippenstein informed ICE the Request does not involve an individual's alien file and requested processing of the original Request within the statutory timeframe. (Exhibit C)
18. ICE has failed to provide - or formally deny - documents within twenty working days, and therefore has constructively denied the Request under 5 U.S. Code § 552(a)(6)(A)(ii).

#### **CAUSE OF ACTION**

##### Violation of the Freedom of Information Act for Wrongful Withholding of Agency Records

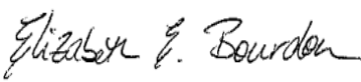
19. Plaintiffs repeat and reallege paragraphs 1-18.
20. Defendant ICE has wrongfully withheld agency records requested by Plaintiffs.
21. Plaintiffs have exhausted all administrative remedies.

**REQUESTED RELIEF**

WHEREFORE, Plaintiff requests this Court:

- (A) Order defendant to provide access to the requested documents in their entirety;
- (B) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (C) Award Plaintiff costs and reasonable attorney fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
- (D) Grant such other and further relief as may deem just and proper.

Dated: October 7, 2019

By: 

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Elizabeth E. Bourdon, B.C.S.  
Florida Bar No. 946591  
435 N. Orange Ave., Suite 400  
Orlando, FL 32801  
(407) 797-1012  
bbourdon@me.com  
*Pro Bono Counsel for Plaintiffs*