

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:19-cv-04028-NRB**

New York Legal Assistance Group v. United States Department of Veterans Affairs
Assigned to: Judge Naomi Reice Buchwald
Cause: 05:552 Freedom of Information Act

Date Filed: 05/06/2019
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**New York Legal Assistance Group**

represented by **Joseph Lawrence Berkman-Breen**
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TERMINATED: 09/19/2019

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ATTORNEY TO BE NOTICED

V.

Defendant**United States Department of Veterans Affairs**

represented by **Casey Kyung-Se Lee**
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Date Filed	#	Docket Text
05/06/2019	<u>1</u>	COMPLAINT against United States Department of Veterans Affairs. (Filing Fee \$ 400.00, Receipt Number ANYSDC-16826778) Document filed by New York Legal Assistance Group.(Tarantolo, Danielle) (Entered: 05/06/2019)
05/06/2019	<u>2</u>	CIVIL COVER SHEET filed. (Tarantolo, Danielle) (Entered: 05/06/2019)
05/06/2019	<u>3</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Veterans Affairs, re: <u>1</u> Complaint. Document filed by New York Legal Assistance Group. (Tarantolo, Danielle) Modified on 5/7/2019 (pc). (Entered: 05/06/2019)
05/07/2019		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Danielle Feldman Tarantolo to RE-FILE Document No. <u>3</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): the PDF attached to the docket entry for the issuance of summons is not correct; Use the FIOA summons form not the standard AO 440 summons form. Re-file the document using the event type

		Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (pc) (Entered: 05/07/2019)
05/07/2019		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Naomi Reice Buchwald. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pc) (Entered: 05/07/2019)
05/07/2019		Magistrate Judge Henry B. Pitman is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pc) (Entered: 05/07/2019)
05/07/2019		Case Designated ECF. (pc) (Entered: 05/07/2019)
05/07/2019	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Veterans Affairs, re: <u>1</u> Complaint. Document filed by New York Legal Assistance Group. (Tarantolo, Danielle) (Entered: 05/07/2019)
05/08/2019	<u>5</u>	ELECTRONIC SUMMONS ISSUED as to United States Department of Veterans Affairs. (dnh) (Entered: 05/08/2019)
05/10/2019	<u>6</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint served. United States Department of Veterans Affairs served on 5/8/2019, answer due 6/7/2019. Service was made by MAIL. Document filed by New York Legal Assistance Group. (Tarantolo, Danielle) (Entered: 05/10/2019)
05/10/2019	<u>7</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint served. Service was made by MAIL. Document filed by New York Legal Assistance Group. (Tarantolo, Danielle) (Entered: 05/10/2019)
05/10/2019	<u>8</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint served. United States Department of Veterans Affairs served on 5/9/2019, answer due 6/10/2019. Service was accepted by Lisa Ahearn, Civil Clerk Supervisor. Document filed by New York Legal Assistance Group. (Tarantolo, Danielle) (Entered: 05/10/2019)
05/16/2019	<u>9</u>	NOTICE OF APPEARANCE by Casey Kyung–Se Lee on behalf of United States Department of Veterans Affairs. (Lee, Casey) (Entered: 05/16/2019)
06/06/2019	<u>10</u>	LETTER MOTION for Extension of Time <i>to respond to the Complaint</i> addressed to Judge Naomi Reice Buchwald from Casey K. Lee dated June 6, 2019. Document filed by United States Department of Veterans Affairs.(Lee, Casey) (Entered: 06/06/2019)
06/06/2019	<u>11</u>	ORDER granting <u>10</u> LETTER MOTION for Extension of Time to respond to the Complaint addressed to Judge Naomi Reice Buchwald from Casey K. Lee dated June 6, 2019. Document filed by United States Department of Veterans Affairs. Application granted. (Signed by Judge Naomi Reice Buchwald on 6/6/2019) (rjm) (Entered: 06/06/2019)
06/06/2019		Set/Reset Deadlines: United States Department of Veterans Affairs answer due 6/24/2019. (rjm) (Entered: 06/06/2019)
06/24/2019	<u>12</u>	ANSWER to <u>1</u> Complaint. Document filed by United States Department of Veterans Affairs.(Lee, Casey) (Entered: 06/24/2019)
06/25/2019	<u>13</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: Initial Conference set for 7/18/2019 at 03:30 PM in Courtroom 21A, 500 Pearl Street, New York, NY 10007 before Judge Naomi Reice Buchwald. (Signed by Judge Naomi Reice Buchwald on 6/25/2019) (kv) (Entered: 06/25/2019)
07/16/2019	<u>14</u>	NOTICE OF APPEARANCE by Joseph Lawrence Berkman–Breen on behalf of New York Legal Assistance Group. (Berkman–Breen, Joseph) (Entered: 07/16/2019)

07/17/2019	<u>15</u>	JOINT LETTER MOTION to Adjourn Conference <i>Scheduled for July 18, 2019 at 3:30 p.m.</i> addressed to Judge Naomi Reice Buchwald from Casey K. Lee and Danielle Tarantolo dated July 17, 2019. Document filed by United States Department of Veterans Affairs.(Lee, Casey) (Entered: 07/17/2019)
07/18/2019	<u>16</u>	ORDER granting <u>15</u> Letter Motion to Adjourn Conference. Application Granted. (Signed by Judge Naomi Reice Buchwald on 7/18/2019) (ama) (Entered: 07/18/2019)
08/07/2019	<u>17</u>	LETTER addressed to Judge Naomi Reice Buchwald from Joseph Berkman–Breen dated August 7, 2019 re: Joint status update. Document filed by New York Legal Assistance Group.(Berkman–Breen, Joseph) (Entered: 08/07/2019)
08/30/2019	<u>18</u>	JOINT LETTER addressed to Judge Naomi Reice Buchwald from Counsel for the parties dated August 30, 2019 re: Status Update. Document filed by United States Department of Veterans Affairs.(Lee, Casey) (Entered: 08/30/2019)
09/03/2019	<u>19</u>	MEMO ENDORSEMENT: on re: <u>18</u> Letter filed by United States Department of Veterans Affairs. ENDORSEMENT: Application Granted. (Signed by Judge Naomi Reice Buchwald on 9/03/2019) (ama) (Entered: 09/05/2019)
09/12/2019	<u>20</u>	LETTER MOTION for Extension of Time addressed to Judge Naomi Reice Buchwald from Casey K. Lee dated September 12, 2019. Document filed by United States Department of Veterans Affairs.(Lee, Casey) (Entered: 09/12/2019)
09/16/2019	<u>21</u>	ORDER: granting <u>20</u> Letter Motion for Extension of Time. SO ORDERED. (Signed by Judge Naomi Reice Buchwald on 9/16/2019) (ama) (Entered: 09/16/2019)
09/18/2019	<u>22</u>	MOTION for Joseph Berkman–Breen to Withdraw as Attorney . Document filed by New York Legal Assistance Group.(Berkman–Breen, Joseph) (Entered: 09/18/2019)
09/19/2019	<u>23</u>	MEMO ENDORSEMENT on <u>22</u> granting Motion to Withdraw as Attorney. ENDORSEMENT: Application Granted. Attorney Joseph Lawrence Berkman–Breen terminated. (Signed by Judge Naomi Reice Buchwald on 9/19/2019) (ama) (Entered: 09/20/2019)
09/27/2019	<u>24</u>	PROPOSED STIPULATION AND ORDER. Document filed by United States Department of Veterans Affairs. (Lee, Casey) (Entered: 09/27/2019)
10/02/2019	<u>25</u>	STIPULATION AND ORDER: IT IS HEREBY STIPULATED AND AGREED by and between NYLAG and the VA, and subject to endorsement by the Court, that: 1. NYLAG releases and discharges the United States of America, and the United States of America's agencies, departments, officers, employees, servants, and agents from any and all claims and causes of action that NYLAG asserted, or could have asserted, in this litigation arising out of the FOIA Request, except for any and all claims for attorneys' fees and litigation costs NYLAG asserted, or could have asserted, in this litigation. 2. By entering into this Stipulation, NYLAG in no way concedes that the VA's application of FOIA exemption 6 to documents responsive to the FOIA Request had a lawful basis, and the VA in no way concedes that its application of FOIA exemption 6 to responsive documents lacked a lawful basis. 3. Pursuant to Federal Rule of Civil Procedure 41(a)(2), this action is hereby dismissed with prejudice; provided, however, that the Court shall retain jurisdiction over any issues that might arise relating to the enforcement of this Stipulation and to adjudicate any application by NYLAG for attorneys' fees and costs. 4. To the extent that NYLAG elects to submit a motion for attorneys' fees and costs, it must do so by October 31, 2019; the VA must file its opposition by December 3, 2019; and NYLAG's reply will be due December 17, 2019. The parties reserve all rights and defenses with respect to any such application. (Motions due by 10/31/2019., Responses due by 12/3/2019, Replies due by 12/17/2019.) (Signed by Judge Naomi Reice Buchwald on 10/1/2019) (mro) (Entered: 10/02/2019)
10/28/2019	<u>26</u>	CONSENT LETTER MOTION for Extension of Time to File <i>Petition for Attorneys' Fees and Costs</i> addressed to Judge Naomi Reice Buchwald from Danielle Tarantolo dated October 28, 2019. Document filed by New York Legal Assistance Group.(Tarantolo, Danielle) (Entered: 10/28/2019)
10/29/2019	<u>27</u>	ORDER: granting <u>26</u> Letter Motion for Extension of Time to File. (The parties thus propose the following new briefing schedule on Plaintiffs' motion, should a motion remain necessary: Plaintiff's petition due November 14, 2019; Defendant's opposition

		due December 17, 2019; Plaintiff's reply due January 10, 2020). SO ORDERED. (Signed by Judge Naomi Reice Buchwald on 10/29/2019) (ama) (Entered: 10/29/2019)
10/29/2019		Motions due by 11/14/2019. Responses due by 12/17/2019 Replies due by 1/10/2020. (Signed by Judge Naomi Reice Buchwald on 10/29/2019) (ama) (Entered: 10/29/2019)
11/13/2019		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Sarah L. Cave. Please note that this is a reassignment of the designation only. (sjo) (Entered: 11/13/2019)
11/14/2019	<u>28</u>	PROPOSED STIPULATION AND ORDER. Document filed by United States Department of Veterans Affairs. (Lee, Casey) (Entered: 11/14/2019)
11/19/2019	<u>29</u>	STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL: IT IS HEREBY STIPULATED AND AGREED by and between NYLAG and the VA, and subject to endorsement by the Court, that the parties consensually resolve NYLAG's claim for costs and fees as follows: 1. As soon as reasonably practicable, the VA shall pay to Plaintiff the sum of SEVEN THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS (\$7,500.00) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. §552(a)(4)(E), which sum Plaintiff agrees to accept in complete satisfaction of any and all claims by Plaintiff for attorneys' fees, expenses, costs, interest, and any other sums related to this litigation. 2. Pursuant to Federal Rule of Civil Procedure 41(a)(2), this action is hereby dismissed with prejudice, and without costs or fees other than as provided in paragraph 1 of this Stipulation and Order; provided, however, that the Court shall retain jurisdiction for the purpose of enforcing this Stipulation and Order and/or the October 2, 2019, Stipulation and Order, Dkt. No. 25, including any application for relief by NYLAG due to any alleged failure by the VA to make the payment specified in Paragraph 1 within a reasonable timeframe. (As further set forth in this Order.) SO ORDERED. (Signed by Judge Naomi Reice Buchwald on 11/19/2019) (ks) (Entered: 11/19/2019)