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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Ralph Hua

Plaintiff,

v.

Jill A. Eggleston, Director of Freedom of Information Act Operations of the United States Citizenship and Immigration Services; Ken Cuccinelli, Senior Official Performing the Duties of the Director (vacant) of the United States Citizenship and Immigration Services; Chad F. Wolf, Acting Secretary of the Department of Homeland Security; United States Department of Homeland Security; and United States Citizenship and Immigration Services,

Defendants.

2:20-cv-0889 JRC

CASE NO. [Case #]

COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF

**I. INTRODUCTION**

1. Plaintiff brings this action to redress violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. This action challenges the Defendants’ failure to respond to

1 Plaintiff's FOIA request by disclosing all responsive records in the manner and within the  
2 time limits mandated by FOIA.

- 3 2. Defendants are unlawfully withholding information sought by Plaintiff, information to  
4 which he is entitled and for which no valid disclosure exemption applies. Defendants  
5 failed to comply with the statutory mandates and deadlines imposed by FOIA.  
6 Accordingly, Plaintiff seeks declaratory relief establishing that Defendants have violated  
7 the Freedom of Information Act. Plaintiff also seeks injunctive relief directing  
8 Defendants to promptly provide Plaintiff with the requested information.

9 **II. PARTIES**

- 10 3. Plaintiff Ralph Hua is an individual, and at all times relevant herein, has resided in  
11 Seattle, Washington.
- 12 4. Defendant Jill A. Eggleston, named in her official capacity, is the Director of FOIA  
13 Operations at the United States Citizenship and Immigration Services ("USCIS"). Ms.  
14 Eggleston is in charge with responding to FOIA requests relating to information  
15 maintained by the USCIS.
- 16 5. Defendant Ken Cuccinelli, named in his official capacity, is a senior official performing  
17 the duties of the Director (vacant) of the USCIS, an agency under the Department of  
18 Homeland Security ("DHS").
- 19 6. Defendant Chad Wolf, named in his official capacity, is the Secretary of the United States  
20 Department of Homeland Security.
- 21 7. Defendant Department of Homeland Security ("DHS") is a department of the executive  
22 branch of the United States government and is an agency within the meaning of 5 U.S.C.  
23 § 552(f). DHS is responsible for enforcing federal immigration laws and has possession  
24

1 and control over the records sought by Plaintiff.

2 8. Defendant United States Citizenship and Immigration Services (“USCIS”) is a  
3 component of DHS and is an agency within the meaning of 5 U.S.C. § 552(f). Among  
4 other duties, the USCIS is responsible for receiving and adjudicating immigration  
5 applications. The USCIS has possession and control over the records sought by Plaintiff.

6 **III. JURISDICTION**

7 9. This Court has jurisdiction over this action pursuant to 5 U.S.C. §552(a)(4)(B) (Freedom  
8 Of Information Act), 5 U.S.C. §702, §704 and §706 (Administrative Procedure Act), and  
9 28 U.S.C. §1331 (federal question).

10 **IV. VENUE**

11 10. Venue is proper in the Western District of Washington under 5 U.S.C. 552(a)(4)(B) and  
12 28 U.S.C. § 1391(e) as the Plaintiff resides in Seattle, Washington, and the federal  
13 government is the Defendant.

14 **V. REMEDY SOUGHT**

15 11. Plaintiff seeks to have the Court compel Defendants to timely produce any and all  
16 nonexempt records responsive to his FOIA request. Declaratory relief is appropriate  
17 under 28 U.S.C. § 2201. Injunctive relief is appropriate under 28 U.S.C. § 2202 and 5  
18 U.S.C. § 552(a)(4)(B).

19 **VI. LEGAL FRAMEWORK RELEVANT TO THE CLAIMS**

20 12. “A popular Government, without popular information, or the means of acquiring it, is but  
21 a Prologue to a Farce or a Tragedy; or, perhaps both. Knowledge will forever govern  
22 ignorance: And a people who mean to be their own Governors, must arm themselves with  
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1 the power which knowledge gives.”<sup>1</sup> FOIA advances public access to information and  
2 diffusion of knowledge by requiring, *inter alia*, that all federal agencies must promptly  
3 provide copies of all non-exempt agency records to those persons who make a request for  
4 records that reasonably describe the nature of the records sought, and which conforms to  
5 agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

6 13. FOIA further requires federal agencies to make a final determination on all FOIA  
7 requests that it receives within twenty days after the receipt of such request, unless the  
8 agency provides notice to the requester of “unusual circumstances” meriting additional  
9 time for a response. 5 U.S.C. § 552(a)(6)(A)(i).

10 14. FOIA expressly provides that a person shall be deemed to have exhausted their  
11 administrative remedies if the agency fails to comply with the applicable time limitations  
12 provided by 5 U.S.C. § 552(a)(6)(A)(i)-(ii). 5 U.S.C. § 552(a)(6)(c).

13 15. Any person who has not been provided the records requested pursuant to FOIA, after  
14 exhausting their administrative remedies, may seek legal redress from the federal district  
15 court to “enjoin the agency from withholding agency records and to order agency records  
16 improperly withheld from the complainant.” 5 U.S.C. § 552(a)(4)(B).

17 16. Pursuant to FOIA, this Court may award attorney fees and litigation costs against the  
18 Defendants if Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

## 19 VII. STATEMENT OF FACTS

20 17. Many types of applications for immigration benefits, including affirmative applications  
21 for asylum, withholding of removal, and protection under the Convention against Torture,  
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23 <sup>1</sup> Letter from James Madison to W.T. Barry (August 4, 1822), in *The Writings of James Madison* (Gaillard Hunt  
24 ed.).



1 involve require an applicant to file an application form along with supporting documents  
2 to one of the designated USCIS service centers.

3 18. Most of the application forms collect an applicant's biographic information, such as full  
4 legal name, date of birth, and other personal information. Many applications require an  
5 applicant to attach personal identity documents and passport-style photos.

6 19. While the USCIS has permitted online filing for certain applications, most application  
7 types remain ineligible for online filing, and must be delivered to one of the designated  
8 service centers or application collection locations, as known as "lockboxes."

9 20. The USCIS service centers and lockboxes are responsible for verifying the completeness  
10 of the incoming applications and issuing receipt notices or rejecting deficient filings.

11 21. Plaintiff is an attorney licensed in the State of Washington. He has been practicing U.S.  
12 immigration law since 2010.

13 22. Since late 2019, Plaintiff has learned from other immigration practitioners in the region  
14 and other parts of the country that their applications for asylum (Form I-589) started to be  
15 rejected for minor typographical or style issues. In many cases, the USCIS service centers  
16 rejected applications if an applicant, who has no middle name, left the "middle name"  
17 section of the form blank, or wrote in "none", "not applicable", or "NA". It appears that  
18 only those written in "N/A" would be spared from rejection.

19 23. Other immigration practitioners reported that since late 2019, I-589 applications have  
20 been rejected if the writing on the back of the passport-style photos were in pen rather  
21 than in pencil.

22 24. Plaintiff filed many I-589 applications prior to 2019, and never had any case rejected for  
23 any reason remotely as immaterial as the reasons stated above.  
24

1 25. On May 22, 2020, the American Immigration Lawyers Association issued a practice  
2 pointer to its members about the widespread report relating to the USCIS service centers'  
3 rejection of I-589 based on immaterial reasons.

4 26. There appears to be a policy shift within USCIS regarding its rejection policy in late  
5 2019. It appears that one of the most impacted application types is Form I-589,  
6 application for asylum, withholding of removal, and protection under the Convention  
7 against Torture. Many applicants for Form I-589 are vulnerable groups of the society;  
8 many are not well-educated or have language barriers, while filing these applications *pro*  
9 *se*. To qualify for asylum, an applicant must file the application within one year of arrival  
10 in the United States. 8 U.S.C. § 1158(a)(2)(B). Having an application rejected by the  
11 service center for alleged incompleteness can carry severe negative impact on a person's  
12 eligibility for asylum.

13 27. On April 12, 2020, Plaintiff filed a FOIA request with the USCIS, seeking information  
14 relating to USCIS service centers' rejection guidance issued between January 01, 2017  
15 and April 12, 2020 specifically relating to Forms I-589 and I-485.

16 28. As of the date of this filing, Plaintiff has not received a final decision or adjudication  
17 regarding his FOIA request. Plaintiff treated this as an adverse determination pursuant to  
18 6 C.F.R. §5.6(C) and 5 U.S.C. §552(a)(6)(A). Therefore, Plaintiff has fully exhausted all  
19 administrative remedies required by FOIA. 5 U.S.C §§ 552(a)(6)(A), (a)(6)(C).

## 20 VIII. CLAIMS FOR RELIEF

### 21 COUNT 1 VIOLATION OF THE FOIA FAILURE TO PROVIDE RECORDS

22 29. Plaintiff realleges, as if fully set forth herein, paragraphs 1-28 previously set forth herein.  
23  
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1 30. Plaintiff has a statutory right to have Defendants process his FOIA request, and there is  
2 no legal basis for the denial by the agency of said right. Plaintiff's rights were violated  
3 when Defendants unlawfully delayed their response to his information request beyond the  
4 determination deadline imposed by FOIA, and refused to provide records without a  
5 lawful basis for withholding.

6 **COUNT 2 VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

7 31. Plaintiff realleges paragraphs 1-28 previously set forth herein.

8 32. Defendants have unlawfully withheld agency action by failing to comply with the  
9 mandates of FOIA consequent to its failure and refusal to issue a timely final  
10 determination on Plaintiff's request.

11 33. Defendants' failure and refusal to issue a timely final determination on Plaintiff's  
12 information request constitute agency action unlawfully withheld and unreasonably  
13 delayed and is therefore actionable pursuant to 5 U.S.C. §706(1).

14 34. Alternatively, Defendants' failure to issue a timely final determination on Plaintiff's  
15 information request is in violation of FOIA's statutory mandates and is therefore  
16 arbitrary, capricious, or an abuse of discretion and not in accordance with law and is  
17 therefore actionable pursuant to 5 U.S.C. § 706(2).

18 **IX. REQUESTED RELIEF**

19 WHEREFORE, Plaintiff respectfully request that this Court enter Judgment for Plaintiff  
20 providing the following relief:

21 A. Find that Defendants exceeded the legal response time of twenty days in 5 U.S.C.  
22 §552(a)(6)(A)(i) and failed to give written notice if a ten day extension was needed in the  
23 "unusual circumstances" set forth in 5 U.S.C. §552(a)(6)(B);  
24



- 1 B. Enjoin Defendants from continuing to withhold any and all nonexempt records  
2 responsive to the request;
- 3 C. Order Defendants to conduct an adequate search for agency records responsive to  
4 Plaintiff's FOIA Request within five working days of the date of the Court's Order in this  
5 matter;
- 6 D. Order Defendants to produce any and all nonexempt records responsive to Plaintiff's  
7 request and to prepare an index of allegedly exempt records responsive to the request  
8 within ten business days of the Court's Order in this matter;
- 9 E. Grant Plaintiff a fee waiver for any costs associated with the production and delivery of  
10 documents responsive to his request;
- 11 F. Award Plaintiff the costs and reasonable attorney's fees incurred in this action pursuant  
12 to 5 U.S.C. §552(a)(4)(E); and
- 13 G. Grant such other relief at law and in equity as the Court may deem just and proper.
- 14

15 Respectfully submitted,

16 By:   
17 Ralph Hua  
18 Plaintiff  
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20 Seattle, WA 98119  
21 (206) 303-0712  
22 hualegal@gmail.com

23 Dated: June 6, 2020

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