

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

JOHN SOLOMON,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

Civil Action No. 19-02019 (TNM)

ANSWER

Defendant U.S. Department of State (“State”), by and through undersigned counsel, hereby respond to the separately numbered paragraphs and request for relief contained in Plaintiff’s Complaint as follows below. All allegations in the Complaint, including relief sought, are denied except when specifically admitted. State admits, denies, or otherwise avers as follows:

First Affirmative Defense

Plaintiff has failed to state a claim upon which relief may be granted under the Freedom of Information Act (“FOIA”).

Second Affirmative Defense

Plaintiff is not entitled to compel the production of responsive records protected from disclosure by one or more of the exemptions or exclusions to the FOIA, 5 U.S.C. § 552 *et. seq.*

Third Affirmative Defense

The Court lacks jurisdiction over the subject matter of this Complaint for any relief that exceeds the relief authorized by statute under 5 U.S.C. § 552.

Fourth Affirmative Defense

State conducted an adequate search in response to the underlying request under FOIA, 5 U.S.C. § 552, as amended, and/or otherwise is in the process of completing search(es) and release(s) of non-exempt, responsive records, or segregable portions thereof. State further avers that some or all of the requested records may be exempt, in full or in part, from release under FOIA.

SPECIFIC RESPONSES

Answering specifically each paragraph of the Complaint, using the same headings and numbering used in the Complaint, Defendant answers as follows. Defendant denies any allegations contained in such headings.

COMPLAINT

The first unnumbered paragraph contains Plaintiff's characterization of the lawsuit and the relief it seeks, to which no response is required.

INTRODUCTION

1. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. Defendant respectfully refers the Court to the cited statute for a full and accurate statement of its content.
2. The allegations in this paragraph are immaterial to the adjudication of Plaintiff's FOIA claims and do not set forth grounds upon which Plaintiff are entitled to relief. Thus, no answer is required.
3. This paragraph contains Plaintiff's characterization of this action, not allegations of fact, to which no response is required.

4. Defendant respectfully refers the Court to Plaintiff's FOIA requests for a full and accurate statement of their contents. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of this paragraph.

5. Defendant admits the first sentence of this paragraph. The rest of this paragraph contains conclusions of law, not allegations of fact, so no response is required. To the extent a response is deemed necessary, Defendant denies.

6. This paragraph contains Plaintiff's characterization of this action, not allegations of fact, so no response is required.

THE PARTIES

7. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in this paragraph and on that basis, Defendant denies.

8. Defendant admits that it is a federal agency headquartered in Washington, DC. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the second sentence of this paragraph.

JURISDICTION AND VENUE

9. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendant admits only that this Court has subject matter jurisdiction under FOIA, as limited by the relief available under FOIA. By way of further answer, Defendant respectfully refers the Court to the cited authorities for a full and accurate statement of their contents.

10. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. By way of further answer, Defendant respectfully refers the Court to the cited authorities for a full and accurate statement of their contents.

FACTUAL BACKGROUND

11. Defendant admits only that it received two FOIA requests from Plaintiff dated May 6, 2019. State lacks sufficient knowledge or information to form a belief about the truth of the remaining allegations contained in this paragraph and on that basis, Defendant denies.

12. Defendant respectfully refers the Court to Plaintiff's FOIA requests for a full and accurate statement of their contents.

13. Defendant respectfully refers the Court to Plaintiff's FOIA requests for a full and accurate statement of their contents.

14. Defendant respectfully refers the Court to Plaintiff's FOIA requests for a full and accurate statement of their contents.

15. Admit.

16. Admit.

17. Admit.

18. Admit.

19. Admit.

20. Defendant admits only that it has not provided a final response to Plaintiff's FOIA requests. The remaining allegations in this paragraph contain conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendant denies.

COUNT I

(Violation of the FOIA, 5 U.S.C. §552)

21. Defendant's responses to paragraphs 1–20 are hereby incorporated by reference as if set forth fully herein.

22. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendant denies.

23. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations contained in this paragraph and on that basis, Defendant denies.

24. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendant denies.

25. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendant denies.

PRAYER FOR RELIEF

The remainder of the Complaint consists of Plaintiff's request for relief, to which no response is required. To the extent that a response is deemed necessary, Defendant denies that Plaintiff is entitled to any of the relief requested in this Section, or to any relief whatsoever.

[Remainder of page intentionally left blank.]

WHEREFORE, having fully answered, Defendant respectfully requests that the Court issue an order dismissing with prejudice the above-captioned case, granting Defendant judgment, including all costs, charges and fees permitted by law, and such further relief as the Court deems just and proper.

Dated: August 15, 2019

Respectfully submitted,

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By: /s/ Paul A. Mussenden

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