

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SOUTHEASTERN LEGAL
FOUNDATION INC.,

PLAINTIFF,

v.

OFFICE OF THE DIRECTOR OF
NATIONAL INTELLIGENCE,

DEFENDANT.

Civil Action No.

1:19-cv-03144-JPB

ANSWER TO COMPLAINT

Defendant Office of the Director of National Intelligence (“Defendant” or “ODNI”), by and through counsel, responds to the Complaint of Southeastern Legal Foundation, Inc. (“SLF” or “Plaintiff”), as follows:

FIRST AFFIRMATIVE DEFENSE

Defendant’s actions did not violate the Freedom of Information Act (“FOIA”) or any other statutory or regulatory provision.

SECOND AFFIRMATIVE DEFENSE

Plaintiff is not entitled to compel production of records exempt from disclosure by one or more statutory exemptions. *See, e.g.*, 5 U.S.C. § 552. Disclosure of such information is not required or permitted.

THIRD AFFIRMATIVE DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff's Complaint to the extend Defendant has not improperly withheld information within the meaning of the FOIA. 5 U.S.C. § 552.

FOURTH 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.

FIFTH AFFIRMATIVE DEFENSE

In response to the enumerated paragraphs in the Complaint, Defendant responds as follows:

INTRODUCTION

1. This paragraph contains Plaintiff's description of the Freedom of Information Act ("FOIA"), to which no response is required. Except as thus stated, denied.

2. This paragraph contains statements about the history of the FOIA, the beliefs of the "Founding Fathers," and the First Amendment that are irrelevant to this action, and to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

3. Defendant admits that Plaintiff submitted a FOIA request on May 14, 2019. Except as thus stated, denied. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

4. Defendant respectfully refers the Court to the May 14, 2019 FOIA request for a complete and accurate statement of its contents.

5. The allegations in this paragraph consist of Plaintiff's legal conclusions, to which no response is required. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request and that Defendant has not issued a final determination regarding Plaintiff's FOIA request.

6. The allegations in this paragraph consist of Plaintiff's legal conclusions, to which no response is required. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

THE PARTIES

7. This paragraph contains information about Plaintiff's background, which is irrelevant to this action, and to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

8. Defendant admits that Defendant is a federal agency within the meaning of 5 U.S.C. § 552(f) and that it is headquartered in Washington, D.C. The remaining

allegations in this paragraph consist of Plaintiff's legal conclusions, to which no response is required.

JURISDICTION

9. Defendant admits that the Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Except as thus stated, denied.

10. Defendant admits that venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B). Except as thus stated, denied. Except as thus stated, denied.

FACTUAL BACKGROUND

11. Defendant admits that Plaintiff submitted a FOIA request on May 14, 2019.

12. Defendant respectfully refers the Court to the May 14, 2019 FOIA request for a complete and accurate statement of its contents.

13. Defendant admits that SLF sought a waiver of fees pursuant to 5 U.S.C. § 552. The remaining allegations in this paragraph consist of Plaintiff's characterization of the information requested in the FOIA request, which is irrelevant to this action, and to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

14. Admitted.

15. Admitted.

16. Admitted.

17. The allegations in this paragraph consist of Plaintiff's legal conclusions, to which no response is required.

18. Denied. Defendant avers that it is in the process of searching for records responsive to Plaintiff's FOIA request.

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

19. In response to paragraph 19 of the Complaint, Defendant incorporates by reference Defendant's responses to all proceeding paragraphs.

20. The allegations in this paragraph consist of conclusions of law, to which no response is required.

21. The allegations in this paragraph consist of conclusions of law, to which no response is required.

22. The allegations in this paragraph consist of conclusions of law, to which no response is required.

23. The allegations in this paragraph consist of conclusions of law, to which no response is required.

PRAYER FOR RELIEF

The paragraph Plaintiff's Complaint under the heading "PRAYER FOR RELIEF," and each numbered subpart thereof, constitutes Plaintiff's prayer for

relief to which no response is required. However, to the extent a response is required, Defendant denies that Plaintiff is entitled to any relief requested, or to any relief whatsoever against Defendant.

Plaintiff's headings. To the extent they are repeated within this Answer, are included as reference only, and are mere characterizations of portions of the Complaint for which no response is required.

Responses of lack of information. Pursuant to Federal Rules of Civil Procedure Rule 8(b)(5), each response by Defendant that states that Defendant does not have sufficient information to admit or deny allegations by the Plaintiff has the effect of a denial.

Any allegations of the Complaint requiring a response which have not been specifically admitted or denied are hereby denied.

WHEREFORE, Defendants respectfully request that this action be dismissed with prejudice and that the Court grant defendant such other relief as may be appropriate.

Respectfully submitted,

BYUNG J. PAK
United States Attorney

/s/ Samuel H. Williams

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Local Rules 5.1 and 7.1D, that the foregoing motion and brief have been prepared using Book Antiqua, 13 point font.

/s/ Samuel H. Williams

SAMUEL H. WILLIAMS

Assistant United States Attorney

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CERTIFICATE OF SERVICE

I certify that I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system.

December 12, 2019.

/s/ Samuel H. Williams

SAMUEL H. WILLIAMS

Assistant United States Attorney