

2. The first and third sentences of this paragraph contain plaintiff's characterization of the nature of this action, its claims and the relief sought to which no response is required. With respect to the second sentence, defendant admits that it has not produced any responsive documents to plaintiff and has denied plaintiff's request for expedited processing because plaintiff did not meet the requisite standards for expedited processing. The remainder of the second sentence contains plaintiff's legal conclusion to which no response is required.

3. This paragraph contains plaintiff's allegations concerning jurisdiction and venue, which are legal conclusions that do not require a response.

4. The first five sentences of this paragraph describes the organization and activities of plaintiff to which no response is required; but insofar as an answer may be required, defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations. The last sentence states a legal conclusion, to which no response is required.

5. Defendant admits that it is a component of the U.S. Department of Justice ("DOJ"), an Executive Branch of the U.S. government and that the DOJ is an agency under 5 U.S.C. § 552(f)(1). Defendant also admits that it is headquartered in Washington, D.C., with field offices throughout the United States.

6. Admitted.

7-32. These paragraphs fail to allege facts relevant to plaintiff's claim for relief in this case, and accordingly require no response. To the extent that an answer is required, defendant denies.

33. This paragraph repeats and re-alleges the preceding paragraphs. To the extent a response is deemed required, defendant respectfully refers the Court to its responses to the specific preceding paragraphs.

34. Defendant admits that plaintiff submitted a request under the Freedom of Information Act (“FOIA”) to defendant on September 20, 2012, via facsimile, hereafter referred to as “EPIC’s First FOIA request.”

35. Defendant admits that EPIC’s First FOIA request sought the items listed in subparagraph (a).

36. Defendant admits that plaintiff submitted a request under the FOIA to defendant on September 21, 2012, via facsimile, hereafter referred to as “EPIC’s Second FOIA request.”

37. Defendant admits that EPIC’s Second FOIA request sought the items listed in subparagraph (a).

38. Defendant admits that plaintiff included a request for expedited processing with both FOIA requests. The remaining allegations in this paragraph contain plaintiff’s characterization of the reasons cited in its letters to support its request for expedited processing, to which no response is required because the letters speak for themselves. Defendant respectfully refers the Court to the cited letters for a full and accurate statement of their contents.

39. Defendant admits that plaintiff included a request for “News Media” fee status with its FOIA requests. The remainder of the paragraph constitutes a legal conclusion to which no response is required.

40. Defendant admits that plaintiff included a request for waiver of all duplication fees and that plaintiff alleged in its request that the disclosure of the requested records will contribute to public understanding of the operation and activities of the Government.

41. This paragraph repeats and re-alleges the preceding paragraphs. To the extent a response is deemed required, defendant respectfully refers the Court to its responses to the specific preceding paragraphs.

42. Defendant admits that it acknowledged EPIC's First FOIA request by a letter dated September 26, 2012. The remaining allegations contain plaintiff's characterization of the letter to which no response is required because the letter speaks for itself. Defendant respectfully refers the Court to the cited letter for a full and accurate statement of its contents.

43. Admitted.

44. Admitted.

45. Defendant admits that it acknowledged EPIC's Second FOIA request by letter dated September 26, 2012. The remaining allegations contain plaintiff's characterization of the letter to which no response is required because the letter speaks for itself. Defendant respectfully refers the Court to the cited letter for a full and accurate statement of its contents.

46. Admitted.

47. Defendant lacks knowledge and information to form a belief about alleged denial of EPIC's request for expedited processing of its "Third FOIA request" because plaintiff has not identified a Third FOIA request. Defendant admits that by letter dated

October 3, 2012, it denied EPIC's request for expedited processing of EPIC's Second FOIA request. Defendant refers the Court to the cited letter for a full and accurate statement of its contents.

48. Defendant admits that it sent plaintiff a letter dated October 5, 2012, regarding the scope of plaintiff's Second FOIA request. The remainder of this paragraph contains plaintiff's characterization of the letter to which no response is required because the letter speak for itself. Defendant respectfully refers the Court to the cited letter for a full and accurate statement of its contents.

49. Defendant admits plaintiff called the FBI's FOIA office on October 17, 2012 to discuss the scope of plaintiff's Second FOIA request and that Debbie Beatty, a Supervisory Legal Administrative Specialist, returned the call and left a message. Defendant states that its records, however, do not indicate any discussion of plaintiff's request for a fee waiver.

50. Defendant admits that Debbie Beatty spoke with EPIC on October 19, 2012, regarding the scope of plaintiff's Second FOIA request. Defendant states that its records do not indicate any discussion of plaintiff's request for a fee waiver.

51. Defendant admits that EPIC transmitted a letter via facsimile on October 21, 2012, which amended its Second FOIA Request to include the items listed in subparagraph (a).

52. Admitted.

53. Admitted.

54. This paragraph repeats and re-alleges the preceding paragraphs. To the extent a response is deemed required, defendant respectfully refers the Court to its responses to specific preceding paragraphs.

55. Defendant admits that by plaintiff submitted a letter dated November 1, 2012, regarding its First FOIA request to the Department of Justice's Office of Information Policy ("OIP"). The remaining allegations contain plaintiff's characterization of the letter to which no response is required as the letter is the best evidence of its content.

56. Defendant denies the FBI denied plaintiff's appeal but avers that on December 21, 2012, the OIP sent plaintiff a letter denying its request for expedited processing of plaintiff's First FOIA request and stating that the OIP assigned the number AP-2013-00864 to the appeal. The remainder of this paragraph contains plaintiff's characterization of the letter to which no response because the letter speaks for itself. Defendant respectfully refers the Court to the cited letter for a full and complete statement of its contents.

57. Defendant admits that plaintiff sent a letter dated November 9, 2012 regarding its Second FOIA request to the Department of Justice's Office of Information Policy ("OIP"). The remaining allegations contain plaintiff's characterization of the letter to which no response is required because the letter speaks for itself. Defendant respectfully refers the Court to the cited letter for a full and complete statement of its contents.

58. Defendant denies the FBI denied plaintiff's appeal but avers that on December 6, 2012, the OIP sent plaintiff a letter denying its request for expedited

processing of plaintiff's Second FOIA request and that OIP assigned the number AP-2013-00813 to the appeal. The remaining allegations contained plaintiff's characterization of the letter to which no response is required because the letter speaks for itself. Defendant respectfully refers the Court to the cited letter for a full and complete statement of its contents.

59. This paragraph contains conclusions of law to which no response is required.

60. This paragraph repeats and re-alleges the preceding paragraphs. To the extent a response is deemed required, defendant respectfully refers the Court to its responses in specific preceding paragraphs.

61. Defendant contains conclusions of law to which no response is required.

62. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

63. This paragraph contains conclusions of law, to which no response is required. Moreover, to the extent that this allegation refers to a third FOIA request defendant lacks information and knowledge sufficient to form a belief about the truth of the allegation.

64. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

65. This paragraph repeats and re-alleges the preceding paragraphs. To the extent a response is deemed required, defendant respectfully refers the Court to its responses in the specific preceding paragraphs.

66. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

67. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

Moreover, to the extent that this allegation refers to a third FOIA request defendant lacks information and knowledge sufficient to form a belief about the truth of the allegation.

68. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

69. This paragraph repeats and re-alleges the preceding paragraphs. To the extent a response is deemed required, defendant respectfully refers the Court to its responses to specific preceding paragraphs.

70. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

71. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

72. This paragraph contains conclusions of law, to which no response is required.

73. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required, defendant denies the allegations.

The remainder of the Complaint contains plaintiff's prayer for relief, to which no response is required. To the extent a response is deemed required, defendant denies that plaintiff is entitled to the relief requested, or to any relief whatsoever.

Defendant denies all allegations not expressly admitted.

THEREFORE, having fully answered, defendant asserts plaintiff is not entitled to the relief requested, or to any relief whatsoever, and request that this action be dismissed in its entirety with prejudice and that defendant be given such other relief as the Court may deem just and proper.

Respectfully submitted,

STUART F. DELERY
Assistant Attorney General

ELIZABETH J. SHAPIRO
Deputy Branch Director

s/Marcia K. Sowles
MARCIA K. SOWLES
DC Bar No. 369455
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue N.W. Room 7114
Washington, D.C. 20530
Tel.: (202) 514- 4960
Fax: (202) 616- 8470
E-mail: marcia.sowles@usdoj.gov

Attorneys for Defendant