

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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ELECTRONIC PRIVACY)	
INFORMATION CENTER,)	
)	
	Plaintiff,)	
	v.)	Civil Action No. 04-0944 (RMU)
)	ECF
DEPARTMENT OF HOMELAND)	
SECURITY,)	
)	
TRANSPORTATION SECURITY)	
ADMINISTRATION,)	
)	
	and)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
)	
	Defendants.)	
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DEFENDANTS' ANSWER

Defendants Department of Homeland Security (DHS), Transportation Security Administration (TSA), and U.S. Department of Justice (DOJ) hereby answer plaintiff's Complaint for Injunctive Relief as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Defendants answer the numbered paragraphs of plaintiff's Complaint as follows:

1. This paragraph contains plaintiff's characterization of the allegations made in this action in response to which no answer is required, but insofar as an answer may be deemed required, the allegations are denied and the Court is respectfully referred to the Complaint filed

by plaintiff in this action for a complete and accurate statement of its contents.

2. The first two sentences of paragraph 2 contain plaintiff's conclusions of law regarding the scope and extent of the Court's jurisdiction in response to which no answer is required, but insofar as an answer may be deemed required, the allegations are denied. The third sentence of this paragraph is admitted.

3. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

4. Admitted.

5. The first sentence of paragraph 5 is admitted. The second sentence is denied, except to admit that defendant TSA is a component of DHS which is an agency within the meaning of 5 U.S.C. § 552(f).

6. Admitted.

7-10. These paragraphs consist of plaintiff's recitation and characterization of events and occurrences to which no response is necessary. To the extent a response is deemed necessary, defendants deny.

11-14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations.

15-16. Admit that by letter dated September 22, 2003, plaintiff sent a request to defendant TSA, pursuant to the FOIA, 5 U.S.C. § 552, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

17. Admitted.

18. Admitted.

19. Admit that by letter dated February 6, 2004, defendant TSA released certain records to plaintiff, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

20. Admit that by letter dated February 10, 2004, defendant TSA released certain records to plaintiff, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

21. Admit that by letter dated February 20, 2004, defendant TSA released certain records to plaintiff, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

22. Admit that defendant TSA received correspondence from plaintiff dated February 24, 2004, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

23. Admit that by letter dated April 26, 2004 defendant TSA provided a response to plaintiff's appeal, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

24. Admit that defendant TSA has not yet finalized the processing of plaintiff's FOIA request, except to aver that the DHS Privacy Office will coordinate the final response to this FOIA request.

25. Deny, except to aver publication of a "Report to the Public on Events Surrounding jetBlue Data Transfer," which is available at http://www.dhs.gov/interweb/assetlibrary/PrivacyOffice_jetBlueFINAL.pdf, and to which the Court is respectfully referred for a complete and accurate statement of its contents.

26-27. Admit that by letter dated April 2, 2004, plaintiff sent a request to defendant TSA, pursuant to the FOIA, 5 U.S.C. § 552, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

28. Admitted.

29. Admit that by letter dated April 16, 2004, defendant TSA granted expedited processing to plaintiff's request, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

30. Admit that defendant TSA has not yet finalized the processing of plaintiff's FOIA request, except to aver that the DHS Privacy Office will coordinate the final response to this FOIA request.

31-32. Admit that by letter dated April 12, 2004, plaintiff sent a request to defendant TSA, pursuant to the FOIA, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

33. Admit that by letter dated April 12, 2004, defendant TSA acknowledged receipt of plaintiff's request, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

34. Admit that by letter dated April 15, 2004, defendant TSA granted expedited processing to plaintiff's request, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

35. Admit that by letter dated May 19, 2004, defendant TSA corresponded with the plaintiff, to which the Court is respectfully referred for a complete and accurate statement of the contents of the correspondence.

36. Admit that defendants TSA and DHS have not yet finalized the processing of plaintiff's FOIA request, except to aver that the DHS Privacy Office will coordinate the final response to this FOIA request.

37-38. Defendant FBI admits that it received a letter at FBI Headquarters (FBIHQ) from plaintiff dated May 6, 2004, seeking expedited processing of its request pursuant to the FOIA, 5 U.S.C. § 552, to which the Court is respectfully referred for a complete and accurate statement of its contents. Further, defendant FBI avers that by letter dated June 21, 2004, the FBI notified plaintiff that it was granting plaintiff's request for expedition pursuant to 28 C.F.R. § 16.5(d)(ii).

39. The first two sentences of paragraph 39 contain conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant FBI avers that it received a letter at FBIHQ from plaintiff dated May 6, 2004, seeking expedited processing of its request pursuant to the FOIA, 5 U.S.C. § 552, to which the Court is respectfully referred for a complete and accurate statement of its contents. Defendant FBI lacks sufficient knowledge to form a belief as to the truth of the remaining allegations in paragraph 39.

40-44. Defendant FBI avers that it received a letter at FBIHQ from plaintiff dated May 6, 2004, seeking expedited processing of its request pursuant to the FOIA, 5 U.S.C. § 552, to which the Court is respectfully referred for a complete and accurate statement of its contents. Defendant FBI lacks sufficient knowledge to form a belief as to the truth or falsity of the remaining allegations in paragraphs 40-44.

45. Defendant FBI admits that FBIHQ received a second letter from plaintiff dated May 6, 2004, to which the Court is respectfully referred for a complete and accurate statement of its contents.

46. Admit the first sentence of paragraph 46, and with respect to the remaining sentences in paragraph 46, defendant FBI respectfully refers the Court to its May 19, 2004 letter for a complete and accurate statement of its contents.

47. Defendant TSA realleges the answers to paragraphs 1-25.

48-50. Paragraphs 48-50 contain conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant TSA denies the allegations.

51. Defendant TSA denies that plaintiff is entitled to the relief sought in this paragraph, or to any relief whatsoever.

52. Defendant TSA realleges the answers to paragraphs 1-15 and 26-31.

53-55. Paragraphs 53-55 contain conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant TSA denies the allegations.

56. Defendant TSA denies that plaintiff is entitled to the relief sought in this paragraph, or to any relief whatsoever.

57. Defendants TSA and DHS reallege the answers to paragraphs 1-15 and 32-36.

58-60. Paragraphs 58-60 contain conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendants TSA and DHS deny the allegations.

61. Defendants TSA and DHS deny that plaintiff is entitled to the relief sought in this paragraph, or to any relief whatsoever.

62. In response to paragraph 62, defendant FBI reasserts the answers specified in paragraphs 1-15 and 37-46 above.

63. Paragraph 63 contains conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant FBI denies the allegations.

64. Paragraph 64 contains conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant FBI denies the allegations.

65. Paragraph 65 contains conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant FBI denies the allegations, and respectfully refers the Court to its June 21, 2004 letter granting plaintiff's request for expedition for a complete and accurate statement of its contents.

66. Paragraph 66 contains conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant FBI denies the allegations, and notes that the issue is moot.

67. In response to Paragraph 67, defendant FBI reasserts the answers specified in paragraphs 1-15 and 37-42 above.

68-70. Paragraphs 68-70 contain conclusions of law to which no answer is required, but insofar as an answer may be deemed required, defendant FBI denies the allegations.

71. Defendant FBI denies that plaintiff is entitled to the relief sought in this paragraph, or to any relief whatsoever.

Defendants specifically deny all allegations in plaintiff's Complaint not otherwise answered herein. In addition, defendants deny that plaintiff is entitled to the relief sought in its Requested Relief, or to any relief whatsoever.

WHEREFORE, defendants request that plaintiff's prayer for relief be denied, that this action be dismissed with prejudice, and that defendants be awarded their costs and such other relief as may be appropriate.

Dated: July 9, 2004

Respectfully submitted,

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/s/

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July 2004, I caused the foregoing Defendants' Answer to be served on plaintiff's counsel of record electronically by means of the Court's ECF system.

/s/ _____
Nicholas J. Patterson