

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)	
ELECTRONIC PRIVACY INFORMATION		)	
CENTER,		)	
		)	
Plaintiff,		)	Civil Action No.: 11-00945 (ABJ)
		)	
v.		)	
		)	
UNITED STATES DEPARTMENT		)	
OF HOMELAND SECURITY,		)	
		)	
Defendant.		)	
<hr/>		)	

**DEFENDANT’S ANSWER**

Defendant, the United States Department of Homeland Security (DHS) hereby answers Plaintiff’s Complaint as follows.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff has failed to state a claim upon which relief can be granted.

In response to each numbered paragraph in the Complaint, Defendant states:

1. This paragraph contains a characterization of Plaintiff’s Complaint, which speaks for itself, and to which no response is required. To the extent a response is required, Defendant admits that Plaintiff is suing Defendant under the Freedom of Information Act (FOIA), but denies that Defendant is liable to Plaintiff.

2. This paragraph contains Plaintiff’s allegations concerning jurisdiction and venue, which are conclusions of law, and to which no response is required.

3. This paragraph contains Plaintiff's characterizations of itself, its purpose, and its activities, 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.

4. Admit.

5. Admit.

6. Admit that body scanner imaging can produce three-dimensional images of individuals. The term "detailed" is vague and is Plaintiff's characterization of those images produced by this imaging, to which no response is required.

7. Deny that Defendant released the referenced report and further state that the paragraph contains Plaintiff's characterization of the report to which no response is required. To the extent a response is required, Defendant respectfully refers the Court to the text of the report, available at [www.whitehouse.gov/sites/default/files/rss\\_viewers/STSA.pdf](http://www.whitehouse.gov/sites/default/files/rss_viewers/STSA.pdf), which speaks for itself.

8. Admit.

9. Admit.

10. Admit.

11. Deny.

12. Lack knowledge or information sufficient to form a belief as to the truth of the allegations

13. Lack knowledge or information sufficient to form a belief as to the truth of the allegations.

14. Lack knowledge or information sufficient to form a belief as to the truth of the allegations.

15. Admit that Defendant has released documents to Plaintiff and that it has spent funds to develop body scanning technologies. Deny the remaining allegations.

16. Admit.

17. As to the first sentence of this paragraph, admit that Plaintiff requested expedited processing of its FOIA request. Admit that Plaintiff asserted, in its letter of November 24, 2010, that the request pertained “to a matter about which there is an ‘urgency to inform the public about an actual or alleged federal government activity.’” Admit that Plaintiff asserted in its letter that its request was being made by “a person primarily engaged in disseminating information.” To the extent that Plaintiff alleges that its request “pertains to a matter about which there is an urgency to inform the public about an actual or alleged federal government activity,” this is a characterization of Plaintiff’s views of its request to which no response is required. To the extent a response is required, deny. To the extent that Plaintiff alleges that it is “a person primarily engaged in disseminating information,” Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

As to the second sentence of the paragraph, admit that Plaintiff cited, as the basis for its expedited request, 5 U.S.C. § 552(a)(6)(E)(v)(II) (2011). To the extent that Plaintiff alleges that its request met the criteria for expedited processing under 5 U.S.C. § 552(a)(6)(E), such an allegation is a conclusion of law to which no response is required.

As to the third sentence of the paragraph, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations.

18. Admit that Plaintiff, in its letter of November 24, 2010, requested “News Media” fee status. To the extent that Plaintiff alleges that it is a “representative of the news media,” such an allegation is a legal conclusion to which no response is required.

19. Admit.

20. This paragraph contains Plaintiff’s characterizations of the potential effects of the disclosure of the information specified in Plaintiff’s FOIA requests; accordingly no response is required to these characterizations. To the extent a response is required, deny.

21. Lack knowledge or information sufficient to form a belief as to the truth of the allegations.

22. Admit.

23. Admit.

24. Admit that Defendant has released certain documents in full or in part to Plaintiff. Defendant further avers that the documents released speak for themselves.

25. Admit that Defendant withheld documents in full or in part based on 5 U.S.C. § 552(b)(3); 5 U.S.C. § 552(b)(4); and 5 U.S.C. § 552(b)(6). Defendant further avers that it withheld documents in full or in part based on 5 U.S.C. § 552(b)(5).

26. Deny.

27. Admit.

28. Admit.

29. Admit.

30. Admit.

31. Admit.

32. Admit.

33. This paragraph realleges and reincorporates all preceding paragraphs. To the extent a response is required, Defendant refers the Court to its responses to specific preceding paragraphs.

34. The allegation in this paragraph is a conclusion of law to which no response is required.

35. Deny.

36. Deny.

37. Deny.

38. Deny.

Defendant denies each and every allegation not expressly admitted or otherwise qualified.

The remainder of the Complaint is a prayer for relief to which no response is required. If a response is required, Defendant denies that Plaintiff is entitled to the requested relief or any relief whatsoever.

Respectfully submitted,

RONALD C. MACHEN JR., D.C. Bar #447889  
United States Attorney  
for the District of Columbia

RUDOLPH CONTRERAS, D.C. Bar # 434122  
Chief, Civil Division

By: /s/  
JAVIER M. GUZMAN, D.C. Bar # 462679  
Assistant United States Attorney  
555 4th St., N.W.  
Washington, D.C. 20530  
Tel: (202) 616-1761  
Fax: (202) 514-8770  
E-mail: [Javier.Guzman2@usdoj.gov](mailto:Javier.Guzman2@usdoj.gov)