

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

DEMOCRACY FORWARD FOUNDATION,
1333 H Street NW, 11th Floor
Washington, DC 20005,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF
STATE,
2201 C Street NW
Washington, DC 20520,

Defendant.

Case No.

COMPLAINT FOR INJUNCTIVE RELIEF

1. Plaintiff Democracy Forward Foundation (“Democracy Forward”) brings this action against Defendant United States Department of State (“State” or “State Department”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).

2. In response to widespread reports and testimony that businessman and commentator John Solomon was a key player in a plan to disseminate false information regarding the family of one of President Trump’s political rivals—a plan that is central to the ongoing impeachment inquiry—Democracy Forward submitted a FOIA request on October 16, 2019, requesting records reflecting communications between Solomon and an enumerated list of State Department officials understood to have been involved in the matter, including Secretary of State Michael Pompeo, U.S. Ambassador to the European Union Gordon Sondland, and several others (“FOIA Request,” Exhibit A), during a limited time period in 2019.

3. The FOIA Request was specific and narrow, requesting only nonexempt records, save perhaps minor redactions of personal privacy information (such as cell phone numbers).

4. The FOIA Request—which is on the same subject as the ongoing impeachment inquiry and the State Department Inspector General’s urgent briefing to Congress—concerns a matter of unprecedented public interest and is urgently needed to inform the public about alleged government activity, and further raises concerns regarding State’s compliance with laws banning covert government propaganda. Accordingly, the request demonstrated a compelling need and was entitled to expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i)(I). *See also* 22 C.F.R. § 171.11(f).

5. Although the statutory time period has expired, State has not informed Democracy Forward whether it will comply with the FOIA Request, nor has it produced any responsive records.

6. Because State’s failure to comply with the FOIA Request violates the FOIA and State’s implementing regulations, Democracy Forward respectfully requests that this Court order State to promptly produce the requested records.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

8. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

9. Plaintiff Democracy Forward Foundation is a nonprofit organization incorporated under the laws of the District of Columbia and based in Washington, D.C. Democracy Forward

works to promote transparency and accountability in government by educating the public on government actions and policies, including by publicizing records obtained through FOIA requests.

10. Defendant United States Department of State is a federal agency within the meaning of FOIA, *see* 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. State has possession, custody, and control of records Democracy Forward has requested.

FACTUAL ALLEGATIONS

11. Beginning in March 2019, Solomon, acting in close concert with President Trump's personal attorney Rudolph Giuliani, launched what a State Department official in congressional testimony called an "intense campaign" of disinformation to fuel a false corruption narrative implicating the family of one of President Trump's political opponents.¹

12. Solomon published a series of columns in The Hill, a Washington, D.C.-based newspaper focused on political news, claiming among other things that Ukrainian officials were investigating alleged corruption by Burisma Holdings, a Ukrainian energy company, and further alleging that such an investigation had previously been blocked by the Obama Administration.²

¹ *See* Transcript of Interview of George Kent, Deputy Assistant Secretary of State, to Various House Committees (Oct. 15, 2019), at 56 ("Kent Interview"), available at <https://static.politico.com/84/98/8c03273646e18f95f0732eeb900a/george-kent-transcript.pdf>.

² *See, e.g.*, John Solomon, *As Russia Collusion Fades, Ukrainian Plot To Help Clinton Emerges*, The Hill (Mar. 20, 2019), <https://thehill.com/opinion/campaign/435029-as-russia-collusion-fades-ukrainian-plot-to-help-clinton-emerges>; John Solomon, *Joe Biden's 2020 Ukrainian Nightmare: A Closed Probe is Revived*, The Hill (Apr. 1, 2019), <https://thehill.com/opinion/white-house/436816-joe-bidens-2020-ukrainian-nightmare-a-closed-probe-is-revived>; John Solomon, *Ukrainian to US Prosecutors: Why Don't You Want Our Evidence on Democrats?*, The Hill (Apr. 7, 2019), <https://thehill.com/opinion/white-house/437719-ukrainian-to-us-prosecutors-why-dont-you-want-our-evidence-on-democrats>; John Solomon, *Ukrainian Who Meddled Against Trump in 2016 is Now under Russia-Corruption Cloud*, The Hill (May 16, 2019), <https://thehill.com/opinion/white-house/444167-ukrainian-who-meddled-against-trump-in-2016-is-now-under-russia>; John Solomon, *Solomon: These Once-Secret Memos Cast Doubt on Joe Biden's Ukraine Story*, The Hill (Sept. 26, 2019),

Those (largely unsubstantiated) claims, which Solomon's Ukrainian source later repudiated,³ had immediate and obvious salience in the U.S. domestic political sphere; as Solomon's columns noted, Hunter Biden, the son of former Vice President (and current Democratic presidential candidate) Joseph R. Biden Jr., sat on the Board of Directors of Burisma Holdings.

13. Solomon's false claims were immediately seized upon by President Trump's allies, and by the President himself. Solomon appeared at least five times on Sean Hannity's television program on Fox News Channel to amplify his allegations.⁴ Giuliani appeared on Fox News to repeat Solomon's false claims and call for a Department of Justice investigation into Burisma.⁵ Then, on May 19, 2019, President Trump himself appeared on Fox News to attack Vice President Biden based on Solomon's false claims.⁶

14. President Trump's demand that Ukrainian President Volodymyr Zelensky announce an investigation into Burisma—which is central to the ongoing impeachment inquiry—appears to have been based primarily on the false claims in Solomon's reports, as amplified by the President's allies, his personal attorney, and the President himself. Indeed,

<https://thehill.com/opinion/campaign/463307-solomon-these-once-secret-memos-cast-doubt-on-joe-bidens-ukraine-story>.

³ See Tracy Wilkinson, Sergei L. Loiko, *Former Ukraine Prosecutor Says He Saw No Evidence of Wrongdoing by Biden*, L.A. Times (Sept. 29, 2019), <https://www.latimes.com/politics/story/2019-09-29/former-ukraine-prosecutor-says-no-wrongdoing-biden>.

⁴ See *Hannity* (Fox News Channel television broadcast Mar. 20, Apr. 3, Apr. 25, May 1 & May 2, 2019).

⁵ See *MediaBuzz* (Fox News Channel television broadcast Apr. 7, 2019), available at <https://www.foxnews.com/transcript/giuliani-slams-mueller-leak>.

⁶ See Salvador Rizzo, *Fact-Checking President Trump's Wild Jabs at Joe Biden*, Wash. Post (May 23, 2019), <https://www.washingtonpost.com/politics/2019/05/23/fact-checking-president-trumps-wild-jabs-joe-biden/>.

Solomon's columns are identified as the genesis of the Burisma corruption claims in the whistleblower complaint that led to the initiation of the ongoing impeachment inquiry, and in testimony of government officials.⁷

15. It has since been established that Giuliani was Solomon's primary source for his debunked Ukraine columns, and that Solomon coordinated with Giuliani associates (including Lev Parnas, who has since been indicted) on the content and timing of Solomon's Ukraine-related columns.⁸

16. It has also been established that Giuliani was in close contact with various State Department officials as he played an unusual and alarming role in pressuring Ukraine into announcing a politically motivated investigation.⁹

17. Deputy Assistant Secretary of State George Kent stated in a sworn congressional interview that Solomon's columns were the opening salvo in an "intense campaign," and that the information conveyed in Solomon's original column was, "if not entirely made up in full cloth, it was primarily non-truths and non-sequiturs."¹⁰

⁷ See Letter from Anonymous Intelligence Community Official to Sen. Richard Burr & Rep. Adam Schiff (Aug. 12, 2019) at 4-5 ("Whistleblower Complaint"), available at https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf; see also Kent Interview at 56-57.

⁸ See Michael S. Schmidt et al., *Giuliani Is Said to Be Under Investigation for Ukraine Work*, N.Y. Times (Oct. 11, 2019), <https://www.nytimes.com/2019/10/11/us/politics/rudy-giuliani-investigation.html>; Erin Banco & Maxwell Tani, *Biden Dirt File Has Private Email Between John Solomon and Rudy Allies*, Daily Beast (Oct. 3, 2019), <https://www.thedailybeast.com/biden-ukraine-dirt-file-has-private-email-between-john-solomon-and-rudy-allies>.

⁹ See Greg Walters & Cameron Joseph, *'Talk to Rudy': How Trump Let Giuliani Hijack the State Department into Chasing Conspiracy Theories*, Vice News (Nov. 5, 2019), https://www.vice.com/en_us/article/zmj7za/talk-to-rudy-how-trump-let-giuliani-hijack-the-state-department-into-chasing-conspiracy-theories.

¹⁰ Kent Interview at 58-59.

18. Lieutenant Colonel Alexander S. Vindman, until recently of the National Security Council, stated in a sworn congressional interview that Solomon's reporting contained "ludicrous claim[s]," and that "all the key elements [of his reporting] were false," and that these claims were made "to advance the interest of the President."¹¹

19. On November 15, 2019, former United States Ambassador to Ukraine Marie Yovanovitch testified in a public impeachment hearing that Solomon collaborated with Giuliani to launch a smear campaign that targeted her and President Trump's political rivals, which ultimately led to her ouster as Ambassador.¹²

20. These events raise grave concerns that government resources were used for a disinformation campaign with the goal of spreading false information damaging to a political rival of the President. Among the potential legal violations present on these facts is the federal law prohibiting the use of government funds to spread covert propaganda.¹³ The communications between State Department officials and Solomon are critical to determining whether a violation of the ban on covert propaganda occurred.

¹¹ See Transcript of Interview of Lt. Col. Alexander S. Vindman to Various House Committees (Oct. 29, 2019), at 322-23, available at <https://context-cdn.washingtonpost.com/notes/prod/default/documents/77fd9a-c484-4b5a-82e1-4ba098855e3d/note/b57ab8e9-736b-411b-96bc-37096f4bf874.pdf>.

¹² See Rob Tornoe, *Marie Yovanovitch Denies Right-Wing Smear Campaign Pushed by Fox News Host Sean Hannity and Others*, Phila. Inquirer (Nov. 15, 2019), <https://www.inquirer.com/politics/nation/impeachment-hearing-marie-yovanovitch-fox-news-sean-hannity-john-solomon-rudy-giuliani-20191115.html>.

¹³ See Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, § 718, 131 Stat 135, 381 (2017) (banning use of funds "for publicity or propaganda purposes within the United States"); see also U.S. Gov't Accountability Office, B-326944, *Environmental Protection Agency—Application of Publicity or Propaganda and Anti-Lobbying Provisions* (Dec. 14, 2015), <https://www.gao.gov/assets/680/674163.pdf>.

21. Based on these events and concerns, on October 16, 2019, Democracy Forward submitted the FOIA Request to State, seeking communications between several high-ranking State Department officials and Solomon.

The FOIA Request

22. Plaintiff submitted a request via U.S. Mail to State on October 16, 2019, which was delivered on October 18, 2019, seeking the following records:

All records and correspondence, including emails, text messages, messages sent via secure messaging apps such as WhatsApp and Signal, phone logs, visitor logs, or other records containing, discussing or revealing communications or meetings between John Solomon and any of the following individuals, whether or not transmitted using a government server or device:

- a. Secretary of State Mike Pompeo
- b. William “Bill” Taylor, U.S. chargé d’affaires in Ukraine
- c. Kurt Volker, former special U.S. envoy to Ukraine
- d. Gordon¹⁴ Sondland, U.S. Ambassador to the European Union
- e. Marie Yovanovitch, former U.S. Ambassador to Ukraine
- f. George Kent, Deputy Assistant Secretary, U.S. Bureau of European & Eurasian Affairs
- g. Philip Reeker, Acting Assistant Secretary, U.S. Bureau of European & Eurasian Affairs
- h. David Hale, Under Secretary of State for Political Affairs
- i. T. Ulrich Brechbuhl, Counselor of the Department of State
- j. Lisa Kenna, Executive Secretary to Secretary Pompeo
- k. Heather Nauert, State Department Spokesperson
- l. Kuros Ghaffari, Office of Press Relations
- m. Lloyd Matthew, Senior Adviser, Public Affairs
- n. Robert Palladino, Deputy Spokesperson
- o. Ambrose Sayles, Office of Press Relations
- p. Michelle Giuda, Assistant Secretary for Public Diplomacy and Public Affairs

23. The FOIA Request specified a date range of January 1, 2019, to the date on which the search is performed. *See* Exhibit A.

¹⁴ Due to a typographical error, the FOIA Request inadvertently indicated that Mr. Sondland’s first name is “George.” His last name and title are provided correctly.

Entitlement to Expedited Processing

24. Democracy Forward sought expedited processing of the FOIA Request pursuant to 5 U.S.C. § 552(a)(6)(E)(i)(I), as implemented by 22 C.F.R. § 171.11(f).

25. Expedited processing shall be provided “in cases in which the person requesting the records demonstrates a compelling need” 5 U.S.C. § 552(a)(6)(E)(i)(I). “Compelling need” includes requests “made by a person primarily engaged in disseminating information” with an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 22 C.F.R. § 171.11(f)(2) (same).

26. As explained in the FOIA Request, Democracy Forward is “primarily engaged in disseminating information,” and there is an “urgency to inform the public concerning actual or alleged Federal Government activity” on the subject matter of the FOIA Request.

27. The FOIA Request explains that Democracy Forward is a nonprofit organization that seeks to enhance public awareness of the operations of government through a variety of means, including by obtaining government records through FOIA and publicizing those records through major national media outlets. The FOIA Request contained more than a dozen recent examples of national media stories that were based on records obtained by Democracy Forward through FOIA. The FOIA Request noted that Democracy Forward routinely sends press releases and other materials to its email lists, which include more than 6,000 members of the press and 7,000 individuals, and that Democracy Forward further publicizes government records through its website and on popular social media channels.

28. The urgency to inform the public as to these matters could not be more pressing. The FOIA Request explains why Solomon’s communications with State Department officials are of critical importance to the public’s understanding of the activities of the Government. The

State Department’s Inspector General has recognized the urgency of the concerns raised by the disinformation campaign in which Solomon played a central role,¹⁵ and the President’s actions regarding Ukraine—for which Solomon’s “reporting” appears to have formed a key foundation—are central to the ongoing impeachment inquiry in Congress. And as discussed earlier, there are grave concerns that any coordination between Solomon and State Department officials could constitute covert propaganda that violates federal law.

State’s Failure to Comply

29. According to U.S. Postal Service tracking, the State Department’s Office of Information Programs and Services received the FOIA Request on October 18, 2019.

30. State was required to make a determination on Democracy Forward’s request for expedited processing no later than October 28, 2019. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I).

31. State notified Democracy Forward via email on November 18, 2019, that it had granted Democracy Forward’s requests for expedited processing and a fee waiver. *See* Exhibit B.

32. State was required to notify Democracy Forward whether it would comply with the FOIA Request no later than November 18, 2019. *See* 5 U.S.C. § 552(a)(6)(A)(i).

33. Despite this mandatory deadline, State has not informed Democracy Forward whether it will comply with the FOIA Request, nor has it produced responsive records.

¹⁵ The State Department’s Inspector General gave an urgent briefing to members of Congress based in part on communications between Solomon and Giuliani associates, materials that Giuliani subsequently handed to Secretary of State Pompeo. *See* Jeremy Herb et al., *State Department Inspector General Gives Congress Documents That Giuliani Provided*, CNN (Oct. 2, 2019), <https://www.cnn.com/2019/10/02/politics/state-department-inspector-general-briefing-congress/index.html>.

Exhaustion of Administrative Remedies

34. Through State's failure to comply with the statutory requirement to make a determination on the FOIA Request within 20 working days, Democracy Forward is "deemed to have exhausted [its] administrative remedies." *See* 5 U.S.C. § 552(a)(6)(C)(i).

COUNT I

Violation of FOIA, 5 U.S.C. § 552

State's Failure to Respond to Request Within 20 Working Days

35. Democracy Forward repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

36. By failing to inform Democracy Forward whether it will comply with its FOIA Request within the statutorily mandated time period, *see* 5 U.S.C. § 552(a)(6)(A)(i), State has violated its duties under FOIA, including but not limited to its duties to conduct a reasonable search for responsive records and to release all nonexempt records, including reasonably segregable nonexempt portions of records. *See id.* § 552.

37. Democracy Forward is being irreparably harmed by State's violation of the FOIA, and will continue to be irreparably harmed unless State is compelled to comply with the FOIA.

REQUESTED RELIEF

WHEREFORE, Democracy Forward respectfully requests this Court:

- (1) order State to conduct a search for any and all responsive records to the FOIA Request and demonstrate that it employed search methods reasonably likely to lead to discovery of records responsive to the FOIA Request;

- (2) order State to produce, by a date certain, any and all nonexempt records responsive to the FOIA Request and a *Vaughn* index of any responsive records withheld under a claim of exemption;
- (3) enjoin State from continuing to withhold any and all nonexempt records responsive to the FOIA Request;
- (4) award Democracy Forward attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (5) grant Democracy Forward such other relief as the Court deems just and proper.

Dated: November 20, 2019

Respectfully submitted,

/s/ Nitin Shah

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EXHIBIT A



October 16, 2019

VIA Mail

U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS/RL
State Annex 2 (SA-2)
515 22nd Street, N.W.
Washington, D.C. 20522-8100

Re: Freedom of Information Act Records Request

Dear FOIA Officer,

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of State regulations at 22 C.F.R. Part 171, Democracy Forward Foundation makes the following request for records.

Background

In August 2019, a whistleblower complaint sent to the Intelligence Community Inspector General by an anonymous U.S. government official detailed a July 25, 2019 call between President Trump and Ukrainian President Zelensky, during which Trump requested the Ukrainian government work with Rudy Giuliani to investigate the Biden family.¹ The complaint cited to “a series of articles” authored by John Solomon, then an investigative reporter for *The Hill*, as part of the circumstances leading to the July call.² The articles detailed, among other things, allegations made by several Ukrainian officials against current and former U.S. officials.³ The accuracy of some claims made in these articles have been widely scrutinized, and in a few cases refuted.⁴ The credibility and transparency of Solomon’s sources have also come into question.⁵ And Solomon’s communications with President Trump’s lawyer and political allies regarding the

¹ *Whistleblower Complaint*, available at <https://www.usatoday.com/documents/6430388-20190812-Whistleblower-Complaint-Unclass/>.

² *Id.*

³ *Id.*

⁴ Amy Mackinnon & Reid Standish, *How a D.C. News Site Amplified Dubious Ukraine Claims*, Foreign Policy (Sept. 26, 2019), <https://foreignpolicy.com/2019/09/26/how-a-dc-news-site-amplified-dubious-ukraine-claims/>; Erik Wemple, *John Solomon foisted a bogus story on Fox News viewers. His punishment? A contract.*, Wash. Post (Oct. 8, 2019) [hereinafter Wemple I], <https://www.washingtonpost.com/opinions/2019/10/08/john-solomon-foisted-bogus-story-fox-news-viewers-his-punishment-contract/>.

⁵ *See, e.g.*, Mackinnon & Standish, *supra* n.4.

Ukraine-Biden story were, in part, the subject of an “urgent briefing” to relevant congressional committees by the State Department’s Inspector General.⁶

Solomon, who recently signed a contract to join Fox News as a contributor and has made frequent guest appearances on the network’s “Hannity,”⁷ has previously come under fire for biased content and questionable reporting tactics. Many of his former *Hill* colleagues saw his stories as “overtly ideological, convoluted, and often lacking in crucial context.”⁸ And recent reporting has revealed Solomon sent an email to Trump allies Lev Parnas, Joe diGenova and Victoria Toensing--who have all emerged as key players in the lead up to the July 25 call--in advance of publishing at least one of the articles referenced in the whistleblower complaint.⁹ This email, compounded with Solomon’s reputation for bias, raises questions regarding the ties between Solomon and Trump allies, and more broadly presents concerns regarding the degree to which pro-Trump figures are working directly with sympathetic journalists to influence public opinion. Moreover, to the extent that Administration officials are directing the content of Solomon’s reporting, it raises serious concerns regarding the Administration’s compliance with laws barring covert propaganda.¹⁰

Records Requested

In an effort to better understand, and explain to the public, communications between Department of State officials and Solomon, Democracy Forward requests the Department of State (“the Department”) produce the following within twenty (20) days:

1. All records and correspondence, including emails, text messages, messages sent via secure messaging apps such as WhatsApp and Signal, phone logs, visitor logs, or other records containing, discussing or revealing communications or meetings between John Solomon and any of the following individuals, whether or not transmitted using a government server or device:
 - a. Secretary of State Mike Pompeo
 - b. William “Bill” Taylor, U.S. chargé d’affaires in Ukraine
 - c. Kurt Volker, former special U.S. envoy to Ukraine
 - d. George Sondland, U.S. Ambassador to the European Union
 - e. Marie Yovanovitch, former U.S. Ambassador to Ukraine

⁶ Erin Banco, *Biden dirt file has private email between John Solomon and Rudy allies*, Daily Beast (Oct. 3, 2019), <https://www.thedailybeast.com/biden-ukraine-dirt-file-has-private-email-between-john-solomon-and-rudy-allies>

⁷ See, e.g., Maxwell Tani, *Leaked Memo: Colleagues Unload on John Solomon, the Journalist Who Kicked Off Trump’s Ukraine Conspiracy*, Daily Beast (Sept. 28, 2019), <https://www.thedailybeast.com/leaked-memo-colleagues-unload-on-john-solomon-the-reporter-who-kicked-off-trumps-ukraine-conspiracy>; Erik Wemple, *Staffers at The Hill press management about the work of John Solomon*, Wash. Post (Jan. 17, 2018) [hereinafter Wemple II], <https://www.washingtonpost.com/blogs/erik-wemple/wp/2018/01/17/staffers-at-the-hill-press-management-about-the-work-of-john-solomon/>; Wemple I, supra n.4.

⁸ See, e.g., Tani, supra n.7; Mackinnon & Standish, supra n.4.

⁹ Banco, supra n.6.

¹⁰ See Financial Services and General Government Appropriations Act, 2018, Pub. L. No. 115-141, div. E, title VII, § 718, 132 Stat. 348, 591 (Mar. 23, 2018).

- f. George Kent, Deputy Assistant Secretary, U.S. Bureau of European & Eurasian Affairs
- g. Philip Reeker, Acting Assistant Secretary, U.S. Bureau of European & Eurasian Affairs
- h. David Hale, Under Secretary of State for Political Affairs
- i. T. Ulrich Brechbuhl, Counselor of the Department of State
- j. Lisa Kenna, Executive Secretary to Secretary Pompeo
- k. Heather Nauert, State Department Spokesperson
- l. Kuros Ghaffari, Office of Press Relations
- m. Lloyd Matthew, Senior Adviser, Public Affairs
- n. Robert Palladino, Deputy Spokesperson
- o. Ambrose Sayles, Office of Press Relations
- p. Michelle Giuda, Assistant Secretary for Public Diplomacy and Public Affairs

The date range for this request is January 1, 2019 until the date the search is performed.

Scope of Search

For responsive records, please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are

available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 22 C.F.R. Part 171, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request. FOIA requires documents to be furnished to requesters at no fee or reduced fees when “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)

The disclosure of records sought by this Request is likely to contribute significantly to the public understanding of the operations or activities of the government.

As described above, better understanding the nature of the correspondence between State Department officials and John Solomon is an issue of significant and ongoing public attention--indeed, the State Department Inspector General has deemed it a matter of “urgent concern”--and the records requested will contribute to the public’s understanding of the operation and activities of the government. In particular, these records could reveal the extent to which the State Department may have coordinated with Solomon in relation to his reporting on matters concerning Ukraine.

Democracy Forward Foundation is able to, and regularly does, disseminate Records obtained through FOIA requests to a broad audience of persons interested in the subject matter.

In determining whether a fee waiver is appropriate, courts consider whether a requester has a “demonstrated . . . ability to disseminate the requested information,” *Cause of Action v. F.T.C.*, 799 F.3d 1108, 1116-17 (D.C. Cir. 2015), and whether the requester regularly disseminates records obtained through FOIA to “a reasonably broad audience of persons interested in the subject” of its work. *Carney v. U.S. Dep’t of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). FOIA does not require a requester to describe exactly how it intends to disseminate the information requested, as that would require “pointless specificity”; all that is necessary is for a requester to adequately demonstrate its “ability to publicize disclosed information.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). In evaluating a fee waiver request, courts consider how a requester actually communicates information collected through FOIA to the public, including press releases or a website where documents received are made available, see *id.*, or whether the requester has a history of “contacts with any major news[] companies” that suggest an ability to disseminate materials of interest through the press. *Larson v. C.I.A.*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (upholding a denial of a fee waiver to a requester who had failed to identify his relationships with newspaper companies that could disseminate documents).

DFF has a demonstrated ability to disseminate information of public interest requested through FOIA, and intends to publicize records DFF receives that contribute significantly to the public’s understanding of correspondence between State Department officials and Solomon.

DFF operates a dedicated communications staff with deep relations with a wide variety of national publications. When DFF obtains materials through FOIA requests that are of significant public interest, DFF's communications staff regularly works to ensure that these materials and their contents are featured in press articles educating the public about the operation of government; many articles feature additional commentary and analysis from DFF staff about those materials and their relevance to policy issues of public interest.¹¹

Additionally, DFF regularly sends press releases and other materials to over 6,000 members of the press and the over 7,000 members on our organization's email list, discussing ongoing legal developments related to executive branch policymaking. These materials often include descriptions and analysis of information obtained by DFF through its FOIA requests.¹² In

¹¹ See, e.g., Alexander Nazaryan, *Why did right-wing troll Charles C. Johnson meet with Commerce Secretary Wilbur Ross?*, Yahoo News (May 14, 2019), <https://news.yahoo.com/why-did-rightwing-troll-charles-c-johnson-want-to-meet-with-commerce-secretary-wilbur-ross-090000636.html>; Derek Kravitz and Jack Gillum, *"Happy to Do It": Emails Show Current FAA Chief Coordinated With Ex-Lobbyist Colleagues on Policy*, ProPublica (Mar. 27, 2019), <https://www.propublica.org/article/dan-elwell-current-faa-chief-coordinated-with-ex-lobbyist-colleagues-on-policy>;

Hamid Aleaziz, *Emails Show US Border Officials Didn't Receive "Zero Tolerance" Guidance Until After the Policy Was Enacted*, BuzzFeed News (Feb. 28, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/zero-tolerance-policy-guidance-dhs-family-separation>; Jonathan Cohn and Jeffrey Young, *Emails Show Trump Administration Was Told Obamacare Ad Cuts Could Hurt Enrollment*, Huffpost (Dec. 17, 2018), https://www.huffingtonpost.com/entry/trump-verma-obamacare-advertising-cut_us_5c115061e4b084b082ff8dba; Madison Pauly, *When the Biggest Prison Company Complained About a California Sanctuary Law, ICE Listened*, Mother Jones (Dec. 7, 2018), <https://www.motherjones.com/politics/2018/12/geo-memo-private-prison-california-immigration/>; Eliza Rellman, *'Just answer the question and kill this story': In internal emails, Heather Nauert criticized Rex Tillerson's refusal to deny reports that he called Trump a 'moron.'* Business Insider (Nov. 2, 2018), <https://www.businessinsider.com/heather-nauert-rex-tillerson-trump-moron-2018-11>; Rebecca Klein, *Lawsuit Accuses Betsy DeVos And Her Deputies Of Being Motivated By Sexism*, HuffPost (Oct. 31, 2018), https://m.huffpost.com/us/entry/us_5bd9ff6ee4b01abe6a1ad4a9; Nick Penzenstadler, *A year after Vegas shooting, ATF emails reveal blame, alarm over bump stocks*, USA Today (Oct. 1, 2018), <https://www.usatoday.com/story/news/2018/10/01/year-after-vegas-shooting-atf-emails-reveal-blame-alarm-over-bump-stocks/1432137002/>; Jessica Kwong, *Ivanka Trump was more than complicit in Obama equal pay rollback—she had a hand in it, watchdog alleges*, Newsweek (Aug. 29, 2018), <https://www.newsweek.com/ivanka-trump-equal-pay-complicit-obama-1093833>; Vera Bergengruen, *New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump*, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emails-show-what-happens-when-the-white-house-keeps>; Erin Dooley, *Exclusive: Former for-profit college executive shaped Education Department policy that could benefit former employers: Documents*, ABC News (May 15, 2017), <https://abcnews.go.com/US/exclusive-profit-college-executive-shaped-education-department-policy/story?id=55108981>; Heidi Przybyla, *Notes, emails reveal Trump appointees' war to end HHS teen pregnancy program*, NBC News (Mar. 20, 2018), <https://www.nbcnews.com/politics/politics-news/notes-emails-reveal-trump-appointees-war-end-hhs-teen-pregnancy-n857686>; Dominic Holden, *Documents Show The Trump Administration Approved Bump Stocks Before It Opposed Them*, BuzzFeed News (Mar. 22, 2018), <https://www.buzzfeednews.com/article/dominicholden/trump-administration-bump-stocks>; Bernard Condon, *Trump Advisor Denies He Cheered End of Tunnel Funding Deal*, Associated Press (Feb. 13, 2018), available at <https://www.usnews.com/news/business/articles/2018-02-13/trump-adviser-denies-he-cheered-end-of-tunnel-funding-deal>; Celeste Katz, *Interior Department tapped wildfire preparedness funds for Ryan Zinke helicopter tour*, Newsweek (Dec. 29, 2017), <https://www.newsweek.com/ryan-zinke-interior-department-helicopters-wildfires-757857>.

¹² See, e.g., *BREAKING: At Congressional Hearing, Sec. DeVos Confronted With Records Revealing Trump Administration's Unlawful Decision to Permit Federal Funds to Arm Teachers* (Apr. 10, 2019), <https://democracyforward.org/press/breaking-at-congressional-hearing-sec-devos-confronted-with-records-revealing-trump-administrations-unlawful-decision-to-permit-federal-funds-to-arm-teachers/>; *BREAKING: New Evidence Reinforces Claim Trump's Title IX Policy Was Based on Sexist Stereotypes, Rendering it Unconstitutional* (Nov. 1, 2018),

addition, DFF operates a verified Twitter account with over 6,000 followers, and frequently uses the account to circulate significant documents received through FOIA requests.¹³

DFF's website also houses a great deal of information obtained through its FOIA requests, accessible to the public at no cost. DFF's website logged over 187,000 pageviews in 2018 alone.

Finally, DFF frequently incorporates documents received through FOIA into related legal actions brought by DFF on behalf of its clients, and in doing so further publicizes documents received by explaining their legal significance.¹⁴

Democracy Forward Foundation is a purely noncommercial requester.

Democracy Forward Foundation is not filing this Request to further its commercial interest, and any information disclosed by DFF as a result of this FOIA request will be disclosed at no cost. A fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch*, 326 F.3d at 1312 ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

Democracy Forward is a representative of the news media

<https://democracyforward.org/press/breaking-new-evidence-reinforces-claim-trumps-title-ix-policy-was-based-on-sexist-stereotypes-rendering-it-unconstitutional/>; *On 1-Year Anniversary of Equal Pay Roll Back, New Documents Reveal Ivanka Trump's Role in Trump Administration Decision to Roll Back Protections for Women and Working Families* (Aug. 29, 2018), <https://democracyforward.org/press/on-1-year-anniversary-of-equal-pay-roll-back-new-documents-reveal-ivanka-trumps-role-in-trump-administration-decision-to-roll-back-protections-for-women-and-working-families/>; *Democracy Forward Demands Ethics Investigation into White House Official's Role in Developing Special Drug Pricing Project With Novartis* (July 11, 2018), <https://democracyforward.org/press/democracy-forward-demands-ethics-investigation-into-white-house-officials-role-in-developing-special-drug-pricing-project-with-novartis/>; *BREAKING: New Records Reveal DeVos Senior Advisor And Former For-Profit College Executive Directed Rollback of Protections Against Predatory Student Loans* (May 15, 2018), <https://democracyforward.org/press/breaking-new-records-reveal-devos-senior-advisor-former-profit-college-executive-directed-rollback-protections-predatory-student-loans/>; *BREAKING: New Records Suggest Trump-Appointed Political Officials Drove HHS Decision To End Program Grants That Have Helped Reduce Teen Pregnancy Rates To All-Time Low* (Mar. 20, 2018), <https://democracyforward.org/press/breaking-new-records-suggest-trump-appointed-political-officials-drove-hhs-decision-end-program-grants-helped-reduce-teen-pregnancy-rates-time-low/>.

¹³ See, e.g., the following tweets and tweet threads from @DemocracyFwd: <https://twitter.com/DemocracyFwd/status/910123899035226112> (Sep. 19, 2017); <https://twitter.com/DemocracyFwd/status/976991060680462336> (Mar. 22, 2018); <https://twitter.com/DemocracyFwd/status/996480908877271042> (May 15, 2018); <https://twitter.com/DemocracyFwd/status/998986714105483264> (May 22, 2018); <https://twitter.com/DemocracyFwd/status/1022870550769754112> (July 27, 2018); <https://twitter.com/DemocracyFwd/status/1035144352345903105> (Aug. 30, 2018); <https://twitter.com/DemocracyFwd/status/1053294640382779392> (Oct. 19, 2018); <https://twitter.com/DemocracyFwd/status/1071105652867690496> (Dec. 7, 2018).

¹⁴ See, e.g., Second Amended Complaint for Injunctive Relief at 31, *SurvJustice, Inc., et al. v. DeVos et al.*, No. 3:18-cv-00535-JSC (N.D. Cal. Oct. 31, 2018), ECF No. 86, reported on in Klein, *supra* n.11; Memorandum of Law in Support of Plaintiffs' Motion for Preliminary and Permanent Injunction at 14-15, *Healthy Teen Network and Mayor and City Council of Baltimore v. Azar and U.S. Dep't of Health and Human Services*, No. 1:18-cv-00468-CCB (D. Md. Mar. 27, 2018), ECF No. 18-1, reported on in Przybyla, *supra* n.11.

A representative of the news media is one that “publishes or otherwise disseminates information to the public,” and in particular one that “gathers information from a variety of sources; exercises a significant degree of editorial discretion in deciding what documents to use and how to organize them; devises indices and finding aids; and distributes the resulting work to the public.” *Nat’l Sec. Archive v. US Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

Representatives of the news media qualify for a waiver of all fees except “reasonable standard charges for document duplication” as a representative of the news media pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II).

As documented above, DFF extensively disseminates information gathered through FOIA requests to the public, via sharing that information with other news outlets, publishing and sending press releases and other updates to our website and email list, and alerting our followers on social media to new developments in our work, including highlights from documents obtained through FOIA. This process entails a great degree of editorial discretion in deciding which documents to highlight and how to organize them for the public, as our team of lawyers and policy experts carefully examine and build a thorough understanding of the documents we receive from FOIA and their relationship to policies of interest to the public.

Beyond disseminating information to reporters for them to publish, and sharing press releases and updates, Democracy Forward has also sought to disseminate information directly to the public through reports and opinion pieces written by our staff.¹⁵

For all the foregoing reasons, Democracy Forward Foundation qualifies for a fee waiver.

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

Request for Expedited Processing

¹⁵ See, e.g., *A Blueprint for Cronyism: President Trump’s Illegal Infrastructure Plan to Enrich His Friends*, Democracy Forward Foundation (Jan. 30, 2018), <https://democracyforward.org/wp-content/uploads/2018/01/Infrastructure-Report.pdf>; Elana Schor, *Trump critics seize on developer ties to infrastructure plan*, Politico (Jan. 30, 2018), <https://www.politico.com/story/2018/01/30/trump-infrastructure-developers-state-of-union-376326> (press coverage of DFF’s report on White House infrastructure policy); *Airlines and the Trump Administration*, Democracy Forward Foundation (Jan. 11, 2018), <https://democracyforward.org/updates/airlines-and-the-trump-administration/>; Bart Jansen, *Lost bags, airline fees: Protections for travelers rights stall under Trump*, USA Today (Jan. 19, 2018), <https://www.usatoday.com/story/news/2018/01/19/lost-bags-airline-fees-protections-travelers-rights-stall-under-trump/1043879001/> (press coverage utilizing the information DFF organized regarding regulatory changes); *What Has Trump Done on Guns? A Lot.*, Democracy Forward Foundation (Feb. 21, 2018), <https://democracyforward.org/updates/trump-done-guns-lot/>; Christi Parsons, *Trump ‘supportive’ of tougher gun law, but his record suggests that may not mean much*, LA Times (Feb. 20, 2018) (press coverage utilizing the information DFF organized regarding regulatory changes); Anne Harkavy and Farhana Khera, *When the Trump administration lies, it might literally be illegal: Learn about the Information Quality Act*, NY Daily News (Feb. 14, 2019), <https://www.nydailynews.com/opinion/ny-oped-when-the-trump-administration-lies-it-might-literally-be-illegal-20190213-story.html> (piece co-authored by DFF executive director); Meg Uzzell and Rachael Klarman, *Why These Women Are Suing Trump to Help End the Gender Pay Gap*, Teen Vogue (Nov. 28, 2017), <https://www.teenvogue.com/story/women-sue-trump-gender-pay-gap> (piece authored by two members of DFF’s staff).

Democracy Forward is entitled to expedited processing of the request because there is a “compelling need” for the information,” specifically “with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity,” 5 U.S.C. §§ 552(E)(i)(I), 552(E)(v)(II); *see also* 22 C.F.R. § 171.11(f)(2). This request for expedited processing hereby incorporates by reference the above paragraphs as if they were fully set forth within this section.

There is “a particular urgency to inform the public about the government activity involved in the request” demonstrated by the tremendous public scrutiny that has been given to the origins of the Ukraine-Biden story that was first reported by John Solomon, and in particular the role that Administration officials may have played in the creation of this story. Accordingly, the State Department’s Inspector General has deemed the matter a subject of “urgent concern,”¹⁶ and the House of Representatives has opened an impeachment inquiry into directly related matters. In short, the urgency to inform the public could not be greater.

As discussed in the fee waiver section above, Democracy Forward is a “person primarily engaged in disseminating information” for purposes of 5 U.S.C. § 552(E)(v)(II). Democracy Forward’s primary mission is to “help expose ... corruption in the Executive Branch,” carried out with “a commitment to educating the public [and] bring[ing] together a team of experienced litigators, analysts, and communicators to ensure that when the government acts unlawfully, the public know about it.”¹⁷ Documents that Democracy Forward has obtained via FOIA and, when necessary, fought for in court have been the subject of numerous news stories of significant public interest.¹⁸ As part of its core mission to educate the public about improper government activity, Democracy Forward intends to use the materials gathered pursuant to this FOIA to educate the public through its website, press releases, and social media outlets. The second factor for expedited processing is thus satisfied as well. *See* 5 C.F.R. § 1303.10(d)(3) (noting that “information dissemination ... need not be [the requester’s] sole occupation”).

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles in meeting the request within 20 working days, please contact foia@democracyforward.org.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

¹⁶ *See* Jeremy Herb, Lauren Fox, et al., State Department Inspector General Gives Congress Documents That Giuliani Provided, CNN (Oct. 2, 2019), <https://www.cnn.com/2019/10/02/politics/state-department-inspector-general-briefing-congress/index.html>.

¹⁷ Democracy Forward, Who We Are, <https://democracyforward.org/about/> (last visited Oct. 10, 2019).

¹⁸ *See, e.g.* Vera Bergengruen, New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emailsshow-what-happens-when-the-white-house-keeps> (citing to emails obtained through a request for documents made by Democracy Forward under the FOIA); *see also* Democracy Forward (@DemocracyFwd), Twitter (July 27, 2018, 8:45 AM), <https://twitter.com/DemocracyFwd/status/1022870550769754112>.

/s/ Nitin Shah

Democracy Forward Foundation

EXHIBIT B



United States Department of State

Washington, D.C. 20520

November 18, 2019
F-2020-00770

Nitin Shah
Democracy Forward Foundation
P.O. Box 34553
Washington, D.C. 20043

Dear Mr. Shah:

This letter is to acknowledge receipt of your request dated October 16, 2019, pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to the Department of State, in which you requested records of communications between investigative reporter John Solomon and the Department of State officials listed in the request.

The Office of Information Programs and Services (IPS) received your FOIA request on October 21, 2019. Your FOIA request was assigned the tracking number at the top of this letter. Please include the tracking number in all future communications concerning this FOIA request. We have classified you as an other-use requester. Your request for a fee waiver has been granted. Your request for expedited processing has been granted.

This Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Your request has been assigned to the expedited track and will be handled as quickly as possible.

If you have any questions regarding the status of your request, you may contact our FOIA Requester Service Center or our FOIA Public Liaison via email at FOIAstatus@state.gov or telephone at (202) 261-8484.

Sincerely,

**NICHOLAS J
CORMIER**

Digitally signed by NICHOLAS J CORMIER
Date: 2019.11.18 06:43:34 -05'00'

Nicholas J. Cormier
Chief, Requester Communications Branch
Office of Information Programs and Services

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

Democracy Forward Foundation

Plaintiff

v.

U.S. Department of State

Defendant

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Department of State
The Executive Office
Office of the Legal Adviser
Suite 5.600
600 19th Street, N.W.
Washington, D.C. 20522

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Nitin Shah
Democracy Forward Foundation
1333 H St. NW
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: 11/20/2019

Signature of Clerk or Deputy Clerk

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

Democracy Forward Foundation

Plaintiff

v.

U.S. Department of State

Defendant

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)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Civil Process Clerk
U.S. Attorney's Office for the District of Columbia
555 4th St., NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Nitin Shah
Democracy Forward Foundation
1333 H St. NW
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: 11/20/2019

Signature of Clerk or Deputy Clerk

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C. § 552 (Freedom of Information Act). Defendants are unlawfully withholding public records.

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: 11/20/2019	SIGNATURE OF ATTORNEY OF RECORD: /s/ Nitin Shah
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.