

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

DEMOCRACY FORWARD FOUNDATION,

Plaintiff,

v.

DEPARTMENT OF DEFENSE,

Defendant.

Case No. 1:17-cv-01921-KJB

ANSWER

Defendant, the United States Department of Defense (“DOD”), by and through counsel, responds to Plaintiff’s Complaint as follows:

FIRST DEFENSE

Plaintiff is not entitled to compel production of records exempt from disclosure by one or more exemptions of the Freedom of Information Act, 5 U.S.C. 552 (“FOIA”).

SECOND DEFENSE

Plaintiff has failed to describe the requested records with sufficient particularity as required by the FOIA, and has therefore failed to exhaust administrative remedies.

In response to the numbered paragraphs of the Complaint, Defendant admits, denies, and otherwise responds as follows:

1. This paragraph constitutes Plaintiffs’ characterization of this action, to which no response is required.
2. This paragraph constitutes Plaintiffs’ characterization of this action, to which no response is required.

3. This paragraph constitutes Plaintiffs' characterization of this action, to which no response is required.
4. The allegations of this paragraph consist of Plaintiff's conclusions of law regarding jurisdiction, to which no response is required.
5. The allegations of this paragraph consist of Plaintiff's conclusions of law regarding venue, to which no response is required.
6. Defendant lacks knowledge or information sufficient to form a belief about the truth of Plaintiff's allegations in this paragraph.
7. Admit that DOD is a federal agency within the meaning of FOIA and is headquartered in Washington, D.C. The balance of the allegations in this paragraph consist of Plaintiff's conclusions of law, to which no response is required.
8. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. This paragraph also constitutes Plaintiffs' characterization of a news article, to which no response is required. To the extent a response is deemed required, Defendant respectfully refers the Court to the news article for a full and accurate statement of its contents.
9. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. This paragraph also constitutes Plaintiffs' characterization of a news article, to which no response is required. To the extent a response is deemed required, Defendant respectfully refers the Court to the news article for a full and accurate statement of its contents.
10. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. This paragraph also constitutes

Plaintiffs' characterization of a news article, to which no response is required. To the extent a response is deemed required, Defendant respectfully refers the Court to the news article for a full and accurate statement of its contents.

11. The allegations in this paragraph do not set forth a claim for relief or aver facts in support of a claim to which a response is required. This paragraph also constitutes Plaintiffs' characterization of a news article, to which no response is required. To the extent a response is deemed required, Defendant respectfully refers the Court to the news article for a full and complete record of its contents.
12. Defendant lacks knowledge or information sufficient to form a belief about the truth of Plaintiff's allegations in this paragraph.
13. Defendant lacks knowledge or information sufficient to form a belief about the truth of Plaintiff's allegations in this paragraph, except to admit that plaintiff submitted a FOIA request to DOD.
14. Admit and Defendant respectfully refers the Court to the FOIA request for a full and accurate statement of its contents.
15. Admit and Defendant respectfully refers the Court to the FOIA request for a full and accurate statement of its contents.
16. Deny, and avers that DoD sent an interim response acknowledging receipt on July 11, 2017, and assigned case number 17-F-1207.
17. The allegations of this paragraph consist of Plaintiff's conclusions of law, to which no response is required.
18. The allegations of this paragraph consist of Plaintiff's conclusions of law, to which no response is required.

19. Deny except to admit that DOD had not made a final determination on plaintiff's request as of the date of the complaint.
20. The allegations of this paragraph consist of Plaintiff's conclusions of law, to which no response is required.
21. Defendant incorporates by reference its answers to the foregoing paragraphs as if fully set forth herein.
22. The allegations of this paragraph consist of Plaintiff's conclusions of law, to which no response is required.

The remaining paragraphs constitute a prayer for relief to which no answer 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 hereby denies all allegations in Plaintiffs' complaint not expressly admitted or denied.

WHEREFORE, having fully answered, Defendant prays that:

1. This Court enter judgment for Defendant and dismiss this action with prejudice; and
2. Defendant be granted such further relief as the Court may deem just and proper.

Dated: November 13, 2017

Respectfully Submitted,

CHAD A. READLER
Acting Assistant Attorney General

MARCIA BERMAN
Assistant Director
Federal Programs Branch

/s/ Daniel Bensing
DANIEL BENSING

Senior Trial Counsel
D.C. Bar. No 334268
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, DC 20530
Telephone: (202) 305-0693
Facsimile: (202) 616-8460
Daniel.Bensing@usdoj.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2017, I electronically filed a copy of the foregoing Answer which will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Daniel Bensing