

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LOIS MOORE, *et al.*,

Plaintiffs,

v.

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION,

Defendant.

Civil Action No. 20-1735 (RCL)

ANSWER

Defendant the National Archives and Records Administration (“Defendant” or “NARA”), by and through undersigned counsel, respectfully submits this Answer to the Complaint filed by Plaintiffs Lois Moore, Robert Moore, Jana Orear, Christianne O’Malley, Mark Sauter, John Zimmerlee, and The POW Investigative Project, Inc. (collectively, “Plaintiffs”), on June 25, 2020 (ECF No. 1).¹ Defendant expressly denies all of the allegations in the Complaint that are not specifically admitted or otherwise qualified in this Answer. Defendant responds to the numbered and unnumbered paragraphs in the Complaint as follows:

The first unnumbered paragraph of the Complaint consists of Plaintiffs’ characterization of this action, to which no response is required. Defendant admits that Plaintiffs purport to bring this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

¹ To the extent the Complaint refers to or quotes from external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents in response; however, Defendant’s references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiffs; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

Preliminary Statement²

Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Plaintiffs' preliminary statement.

Jurisdiction

1. This paragraph consists of legal conclusions to which no response is required. To the extent a response is deemed required, Defendant admits that this Court has jurisdiction over proper FOIA actions and that venue is proper in this District.

Parties

2. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 2.
3. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 3.
4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 4.
5. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.
6. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 6.

² Merely for ease of reference, Defendant replicates the headings contained in the Complaint. Although Defendant believes that no response is required to such headings, to the extent a response is deemed required and to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

7. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 7.
8. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 8.
9. Admitted that Defendant is an agency of the federal government that is subject to FOIA. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

Facts

10. Admitted that Plaintiffs submitted a FOIA request to NARA dated April 20, 2020. Defendant respectfully refers the Court to the request for a full and accurate statement of its contents.
11. Admitted that Plaintiffs submitted a FOIA request to NARA dated April 20, 2020. Defendant respectfully refers the Court to the request for a full and accurate statement of its contents.
12. Admitted that Plaintiffs submitted a FOIA request to NARA dated April 20, 2020. Defendant respectfully refers the Court to the request for a full and accurate statement of its contents.
13. Admitted that Plaintiffs' FOIA request was delivered to Defendant's College Park facility on April 23, 2020.
14. Defendant admits that it had not acknowledged receipt of Plaintiffs' FOIA request at the time the Complaint was filed and had not provided a substantive response. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

Count I
(Prompt Disclosure)

15. Defendant repeats its answers to the foregoing paragraphs and incorporate them as though fully set forth herein.
16. This paragraph consists of legal conclusions to which no response is required.

Count II
(News Media Status)

17. Defendant repeats its answers to the foregoing paragraphs and incorporate them as though fully set forth herein.
18. Defendant admits that Plaintiff's April 20, 2020 FOIA request sought status as a representative of the news media. Defendant respectfully refers the Court to the request for a full and accurate statement of its contents. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

The remaining paragraphs of the Complaint set forth Plaintiffs' prayer for relief to which no response is required, but insofar as a response is deemed required, Defendant denies that Plaintiffs are entitled to the relief requested or to any relief whatsoever.

DEFENSES

Defendant reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to this Complaint become known to Defendant through the course of this litigation.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Certain of the information sought by Plaintiffs is exempt from release under one or more exemptions of the FOIA.

THIRD DEFENSE

Plaintiffs are neither eligible nor entitled to attorneys' fees or costs.

FOURTH DEFENSE

The Court lacks jurisdiction to award relief that exceeds that authorized by the FOIA.

Dated: September 14, 2020

Respectfully submitted,

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