

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

PUBLIC CITIZEN, INC.,
1600 20th Street NW
Washington, DC 20009,

Plaintiff,

v.

NATIONAL RAILROAD
PASSENGER CORPORATION, d/b/a
AMTRAK,
1 Massachusetts Avenue NW
Washington, DC 20001,

Defendant.

Civil Action No. 1:20-cv-1948

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the National Railroad Passenger Corporation (Amtrak) to produce records responsive to a FOIA request for materials related to Amtrak's arbitration policy.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Public Citizen, Inc. is a non-profit public-interest organization that, among other things, works to promote openness in government, including by disseminating information to advance government accountability. Public Citizen submitted the FOIA request at issue in this action.

4. Defendant Amtrak is a federally chartered corporation organized under the laws of the District of Columbia. Amtrak is subject to FOIA pursuant to 49 U.S.C. § 24301(e) because Amtrak has received a federal subsidy during all periods relevant to Public Citizen’s FOIA request.

STATEMENT OF FACTS

5. On December 5, 2019, Public Citizen submitted a FOIA request to Amtrak requesting records relating to Amtrak’s adoption and implementation of a mandatory arbitration clause as a term or condition on which it provides passenger rail service.

6. Specifically, Public Citizen requested:

All records created or modified on or after January 1, 2018, and through the date of processing this FOIA request that mention, refer to, evaluate, or discuss the inclusion of an arbitration agreement in the terms and conditions under which Amtrak provides passenger rail services.

All records that form the basis for the position set forth in Amtrak’s letter of November 25, 2019, to Chairmen DeFazio and Lapinski and Ranking Members Graves and Crawford that arbitration “expedite[s] resolution of claims” and “reduce[s] unnecessary litigation costs.”

All records reflecting the number of customer disputes for which arbitration has been requested or has taken place since January 1, 2019, through the date of processing of this request.

All records since January 1, 2019, in which Amtrak or anyone on its behalf informed a claimant that a claim is subject to arbitration.

All records reflecting customer requests to arbitrate disputes with Amtrak or objecting to arbitration with Amtrak, from January 1, 2019, to the date of processing of this FOIA request.

All records of communications between Amtrak and the American Arbitration Association (AAA).

7. Public Citizen requested a waiver of all fees under 5 U.S.C. § 552(a)(4)(A)(iii).

8. By letter dated December 12, 2019, Amtrak acknowledged receipt of Public Citizen's FOIA request and estimated that Amtrak would respond to the request by March 20, 2020. The letter did not acknowledge Public Citizen's request for a fee waiver.

9. On April 15, 2020, Public Citizen sent an email to Amtrak requesting a status update on the FOIA request. Amtrak did not respond to the email.

10. More than 20 working days have passed since Public Citizen submitted its FOIA request, and Amtrak has neither made a final determination nor produced any records in response to the request.

11. Plaintiff has exhausted all administrative remedies with respect to its FOIA request for records.

CAUSE OF ACTION

12. Plaintiff has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records it requested, and there is no legal basis for Amtrak's failure to disclose them.

PRAYER FOR RELIEF

WHEREFORE, Public Citizen requests that this Court:

- (1) Declare that Amtrak's withholding of the requested records is unlawful;
- (2) Order Amtrak to make the requested records available to Public Citizen without delay and at no cost;
- (3) Award Public Citizen its costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as this Court may deem just and proper.

Dated: July 20, 2020

Respectfully submitted,

/s/ Nandan M. Joshi
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