

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

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JESSE COLEMAN,  
520 University Avenue  
Suite 300  
Madison, WI 53703,  
  
Plaintiff,  
  
v.  
  
U.S. DEPARTMENT OF THE INTERIOR,  
1849 C Street NW  
Washington, DC 20240,  
  
Defendant.

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Civil Action No. 1:18-cv-2089

**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 U.S. Department of the Interior to produce records responsive to five FOIA requests.

**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 Jesse Coleman is a Senior Researcher with Documented, an organization that researches corporate influence over public policy. Mr. Coleman’s work has been featured in the *New York Times*, the *Washington Post*, NPR, and other media outlets. Mr. Coleman submitted the FOIA requests at issue in this case.

4. Defendant U.S. Department of the Interior (the Department) is an agency of the federal government of the United States and has possession of and control over the records Mr. Coleman seeks.

## **STATEMENT OF FACTS**

### **FOIA Request OS-2017-00834**

5. On July 12, 2017, Mr. Coleman submitted a FOIA request to the Department for all communications between Katherine MacGregor and any of the following people: Kathleen Sgamma, Mallori Miller, Samantha McDonald, Ryan Ullman, and Dan Naatz.

6. By letter dated July 14, 2017, the Department acknowledged that Mr. Coleman's request was received on July 12, 2017, and assigned the request control number OS-2017-00834. The Department further stated that it was taking a ten-day extension under 43 C.F.R. § 2.19 because the request required it to search for and collect records from field facilities or other establishments that are separate from the office processing the request.

7. More than 30 working days have passed since the Department received Mr. Coleman's July 12, 2017 FOIA request, and the Department has neither made a determination nor produced any records in response to the request.

### **FOIA Request OS-2017-01201**

8. On September 15, 2017, Mr. Coleman submitted a FOIA request to the Department for a list of participants and copies of the agenda, notes, minutes, or any other material created during a May 22, 2017 meeting between Secretary of the Interior Ryan Zinke and the American Petroleum Institute.

9. By letter dated September 27, 2017, the Department acknowledged that Mr. Coleman's request was received on September 15, 2017, and assigned the request control

number OS-2017-1201. The Department further stated that it was taking a ten-day extension under 43 C.F.R. § 2.19 because the request required it to search for and collect records from field facilities or other establishments that are separate from the office processing the request.

10. More than 30 working days have passed since the Department received Mr. Coleman's September 15, 2017 FOIA request, and the Department has neither made a determination nor produced any records in response to the request.

**FOIA Request SOL-2017-00258**

11. On September 29, 2017, Mr. Coleman submitted a FOIA request to the Department for documents regarding the approval of Secretary Zinke's non-commercial flights. Mr. Coleman further requested all documentation of pre-approval of charter air travel for Secretary Zinke, Secretary Zinke's staff (including Katherine MacGregor), Deputy Secretary David Bernhardt, Deputy Secretary Bernhardt's staff, and Vincent Devito.

12. By letter dated September 29, 2017, the Department acknowledged Mr. Coleman's request was received and assigned it tracking number SOL-2017-00258.

13. The Department further classified Mr. Coleman as a "commercial use" requester and stated that, as such, it may charge him for "all search, review, and duplication costs for processing this request." The Department's letter did not provide Mr. Coleman with a right to appeal this fee category classification.

14. More than 20 working days have passed since the Department received Mr. Coleman's September 29, 2017 FOIA request, and the Department has neither made a determination nor produced any records in response to the request.

**FOIA Request OS-2018-00080**

15. On October 10, 2017, Mr. Coleman submitted a FOIA request to the Department for all remarks prepared for Deputy Secretary Bernhardt's October 5 address to the National Mining Association's board meeting at the Trump Hotel.

16. By letter dated October 25, 2017, the Department acknowledged that Mr. Coleman's request was received on October 10, 2017, and assigned the request control number OS-2018-00080. The Department further stated that it was taking a ten-day extension under 43 C.F.R. § 2.19 because the request required it to search for and collect records from field facilities or other establishments that are separate from the office processing the request.

17. More than 30 working days have passed since the Department received Mr. Coleman's October 10, 2017 FOIA request, and the Department has neither made a determination nor produced any records in response to the request.

**FOIA Request OS-2018-00852**

18. On March 13, 2018, Mr. Coleman submitted a FOIA request to the Department for the curriculum vitae and full calendar for Todd Willens from Mr. Willens's start date through the date the request is processed.

19. By letter dated May 23, 2018, the Department acknowledged that Mr. Coleman's request was received on March 13, 2018, and assigned the request control number OS-2018-00852. The Department further stated that it was taking a ten-day extension under 43 C.F.R. § 2.19 because of the need to consult with one or more bureaus within the Department to process the request.

20. More than 30 working days have passed since the Department received Mr. Coleman's March 13, 2018 FOIA request, and the Department has neither made a determination nor produced any records in response to the request.

#### **FIRST CAUSE OF ACTION**

21. Mr. Coleman has exhausted all administrative remedies with respect to FOIA request OS-2017-00834 under 5 U.S.C. § 552(a)(6)(C)(i).

22. Mr. Coleman has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records he requested, and there is no legal basis for the Department's failure to disclose them.

#### **SECOND CAUSE OF ACTION**

23. Mr. Coleman has exhausted all administrative remedies with respect to FOIA request OS-2017-01201 under 5 U.S.C. § 552(a)(6)(C)(i).

24. Mr. Coleman has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records he requested, and there is no legal basis for the Department's failure to disclose them.

#### **THIRD CAUSE OF ACTION**

25. Mr. Coleman has exhausted all administrative remedies with respect to FOIA request SOL-2017-00258 under 5 U.S.C. § 552(a)(6)(C)(i).

26. Mr. Coleman has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records he requested, and there is no legal basis for the Department's failure to disclose them.

27. Mr. Coleman is not a "commercial use" requester within the meaning of FOIA, and the Department has no legal basis to charge him fees based on that classification.

#### **FOURTH CAUSE OF ACTION**

28. Mr. Coleman has exhausted all administrative remedies with respect to FOIA request OS-2018-00080 under 5 U.S.C. § 552(a)(6)(C)(i).

29. Mr. Coleman has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records he requested, and there is no legal basis for the Department's failure to disclose them.

#### **FIFTH CAUSE OF ACTION**

30. Mr. Coleman has exhausted all administrative remedies with respect to FOIA request OS-2018-00852 under 5 U.S.C. § 552(a)(6)(C)(i).

31. Mr. Coleman has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records he requested, and there is no legal basis for the Department's failure to disclose them.

#### **PRAYER FOR RELIEF**

WHEREFORE, Mr. Coleman requests that this Court:

- (1) Declare that the Department's withholding of the requested records is unlawful;
- (2) Order the Department to make the requested records available to Mr. Coleman at no cost and without delay;
- (3) Award Mr. Coleman his 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: September 6, 2018

Respectfully submitted,

/s/ Patrick D. Llewellyn  
Patrick D. Llewellyn (DC Bar No. 1033296)  
Adina H. Rosenbaum (DC Bar No. 490928)  
Public Citizen Litigation Group  
1600 20th Street NW  
Washington, DC 20009  
(202) 588-1000  
pllewellyn@citizen.org