

3. Defendant Department of Justice (DOJ) is an agency of the United States.

4. The Federal Bureau of Investigation (FBI) and Executive Office for United States Attorneys (EOUSA) are components of Defendant DOJ.

5. The FBI and EOUSA have possession, custody and control of the records Plaintiffs seeks.

JURISDICTION AND VENUE

6. This action arises under the Freedom of Information Act (“FOIA”), 5 USC § 552.

7. This Court has jurisdiction over the parties and subject matter pursuant to 5 USC § 552(a)(4)(B).

8. Venue is proper in this district pursuant to 5 USC § 552(a)(4)(B).

STATEMENT OF FACTS

Request to FBI

9. On May 20, 2017, Plaintiffs submitted to the FBI via fax a FOIA request for records mentioning or referring to Roger Eugene Ailes, Fox News Channel, Fox Television Stations, and 21st Century Fox.

10. In letters dated May 26, 2017, the FBI acknowledged receipt of the requests, assigned them tracking numbers, asserted the existence of unusual circumstances, and determined that Plaintiffs were “general (all others) requester[s]” not entitled to educational or media fee status.

11. The FBI assigned tracking number 1374374-000 to the Ailes portion of the request and tracking number 1374385-000 to the remaining portion of the request.

12. On June 19, 2017, Plaintiffs administratively appealed to OIP, via fax, the FBI's determinations that Plaintiffs were general requesters and not educational or media requesters.

13. In letters dated June 27, 2017, OIP acknowledged receipt of the appeals. Plaintiff's appeal with respect to FBI tracking number 1374374-000 was assigned the appeal tracking number of DOJ-AP-2017-004943 by OIP. Plaintiff's appeal with respect to FBI tracking number 1374385-000 was assigned the appeal tracking number of DOJ-AP-2017-004944 by OIP.

14. More than 20 business days have elapsed since Plaintiffs filed their administrative appeal on June 27, 2017, but as of the filing of this Complaint Plaintiffs have not received a final response from OIP adjudicating their administrative appeals.

15. More than 30 business days have elapsed since Plaintiffs submitted the FOIA request to FBI on May 20, 2017, but as of the filing of this Complaint, Plaintiffs have not received a response from the FBI with a final determination as to whether the FBI will release the requested records.

Request to EOUSA

16. On May 20, 2017, Plaintiffs submitted to the EOUSA via fax a FOIA request for records of the U.S. Attorney's Office for the Southern District of New York mentioning or referring to Roger Eugene Ailes, Fox News Channel, Fox Television Stations, and 21st Century Fox.

17. In a May 30, 2017 automated email, EOUSA indicated that it had received the request on May 22, 2017 and assigned it tracking number EOUSA-2017-001683.

18. In a June 1, 2017 letter sent to Plaintiffs' counsel by email, EOUSA acknowledged receipt of the request on May 22, 2017 and asserted the existence of unusual circumstances. The letter did not indicate that any decision had been made with respect to Plaintiffs' request for a waiver of fees and to be considered members of the media and/or educational requesters.

19. More than 30 business days have elapsed since EOUSA received the request on May 22, 2017, but as of the filing of this Complaint, Plaintiffs have not received a response from EOUSA with a final determination as to whether EOUSA will release the requested records.

COUNT I:
VIOLATION OF FOIA

20. This Count realleges and incorporates by reference all of the preceding paragraphs. All documents referenced in this Complaint are incorporated by reference as if set forth fully herein.

21. The FBI has failed to grant or even rule on Plaintiffs' request for a complete waiver of fees.

22. The FBI has improperly classified Plaintiffs as "general" requesters instead of media or educational requesters.

23. The FBI has improperly withheld responsive records.

24. EOUSA has failed to grant or even rule on Plaintiffs' request for a complete waiver of fees.

25. EOUSA has failed to grant or even rule on Plaintiffs' request to be considered media or educational requesters.

26. EOUSA has improperly withheld responsive records.

27. Plaintiffs are deemed to have exhausted their administrative remedies because the FBI and EOUSA have not responded within the time period required by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- (1) Declare Defendant's failure to comply with FOIA to be unlawful;
- (2) Order Defendant to immediately process Plaintiffs' FOIA request;
- (3) Grant Plaintiffs an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC § 552(a)(4)(E)(i);
- (4) Grant Plaintiffs such other and further relief which the Court deems proper.

Respectfully Submitted,

/s/ Jeffrey Light

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