

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

**CAROL ROSENBERG
3511 NW 91st Avenue
Miami, FL 33172**

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF DEFENSE,
1600 Defense Pentagon
Washington, D.C. 20301-1600,**

Defendant.

Case No. 13-1554

COMPLAINT

Plaintiff Carol Rosenberg, by her undersigned attorneys, alleges:

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, brought by Carol Rosenberg, an award-winning military affairs journalist for *The Miami Herald* who has reported on the detention of actual or suspected enemy combatants at the U.S. Naval Base in Guantánamo Bay, Cuba ("Guantánamo") for more than a decade. Ms. Rosenberg brings this action for injunctive and other appropriate relief, seeking the release of agency records from the United States Department of Defense (the "DOD").

2. Through this action, Ms. Rosenberg seeks to compel DOD to provide limited information about the cost to taxpayers of building the "Camp 7" detention facility at Guantánamo and the firm(s) responsible for its construction. Camp 7 is the facility built to house so-called "high value" detainees moved to Guantanamo in 2006. DOD recently disclosed that the facility is structurally unsound and estimates it will cost \$49 million to replace. Ms.

Rosenberg also seeks to compel DOD to provide information about the continuing costs to taxpayers of operating Camp 7.

3. Ms. Rosenberg first sought this information in 2009 after the existence of Camp 7 was publicly acknowledged by DOD. For more than four years, DOD has failed to conduct a reasonable search for the requested documents, to disclose the requested documents, or to provide an adequate legal basis for withholding them. It should be compelled to do so forthwith.

PARTIES

4. Ms. Rosenberg is a reporter for *The Miami Herald*, a newspaper published by The McClatchy Company. *The Miami Herald* is based at 3511 NW 91st Avenue, Miami FL 33172.

5. Defendant DOD is an agency of the federal government that has possession and control of the records that Ms. Rosenberg seeks. DOD is headquartered at 1600 Defense Pentagon, Washington, DC 20301.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action and personal jurisdiction over DOD pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

7. Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B).

8. Ms. Rosenberg has exhausted all administrative remedies.

FACTS

DOD Has Confirmed the Existence of Camp 7 And Now Seeks Funds for Its Early Replacement

9. The United States Government's detention of hundreds of persons at Guantánamo as part of the Global War on Terror following the September 11, 2001 attacks has generated substantial controversy since the first detainees arrived in southeast Cuba in January 2002. President Barack Obama has described the detention center as "expensive," "inefficient," and a

“recruitment tool for terrorists.” During the 2008 Presidential campaign he pledged to close it, and signed an executive order in January 2009 calling for the facility to be shuttered within a year. The deadline was missed, and the closure process has proven to be a slow one beset by political and practical challenges.

10. At its peak the detention facility held approximately 660 prisoners; approximately 164 detainees now remain in Guantánamo. Most are detained either at a maximum-security facility known as “Camp 5” or a medium-security facility known as “Camp 6.”

11. Since 2006, an estimated sixteen “high value” detainees, including detainees accused of planning the September 11, 2001 attacks, have been held at “Camp 7,” which was built in secret at a location within the 45-square mile U.S. Naval Station at Guantánamo Bay. The existence of Camp 7 has been publicly reported since early 2008. *See, e.g.*, Carol Rosenberg, “‘Platinum’ captives held at off-limits Gitmo camp,” *Miami Herald* (Feb. 7, 2008).

12. In early 2009 Admiral Patrick Walsh, then Vice Chief of Naval Operations, publicly confirmed the existence of Camp 7.

13. More recently, defense lawyers representing individuals held at Camp 7 have been allowed to inspect the facility. However, most aspects of Camp 7 – including its original cost and its continued operating costs – have remained secret even as costs for all other Guantánamo facilities have been disclosed to the public.

14. The disclosed details about costs of the Guantánamo detention facility confirm the accuracy of the President’s characterization of it as both “expensive” and “inefficient.” For example, a report to Congress by the DOD Comptroller made public in July 2013 put this year’s expense to operate, staff, and maintain the prison complex holding fewer than 200 detainees at \$454.1 million. *See generally* Carol Rosenberg, “Total U.S. tab tops \$5B for Guantánamo

prison,” *Miami Herald* (July 31, 2013). The report also noted that the Pentagon will have spent a total of \$5.242 billion in taxpayer funds on the facility by the end of 2014.

15. Those costs do not appear to include any costs associated with Camp 7.

16. In March 2013 DOD’s Southern Command, which oversees Guantánamo, requested \$49 million in additional funds to replace Camp 7. According to military officials, Camp 7 “was apparently built on a seasonal streambed and its foundation is buckling.” *See* Charlie Savage, “Pentagon Denies Money for Guantánamo Overhaul, Including a New Semi-Secret Prison,” *N.Y. Times* (Sept. 25, 2013), at A22. According to a military spokesman, the Pentagon denied the funding request and DOD is now seeking through “various measures” to “mitigate some of the conditions of the facilities.” *Id.*

17. DOD officials have publicly disclosed the costs to taxpayers of other previously secret Guantánamo facilities. In December 2011 DOD officials revealed the existence of a previously secret “Camp Five-Echo,” a disciplinary block for those non-compliant detainees in Camps 5 and 6. *See* Carol Rosenberg, “Secret Guantánamo cell block cost nearly \$700,000,” *Miami Herald* (Dec. 24, 2011). Built secretly in November 2007, when the existence of the facility was confirmed in December 2011, DOD also provided a photo and descriptions of the facility, and disclosed its \$690,000 price tag to taxpayers.

18. Other than its estimated \$49 million replacement cost, DOD has not disclosed the cost to taxpayers of building Camp 7, identified the contractor(s) responsible for its construction, or provided the annual costs of maintaining and operating Camp 7.

**Ms. Rosenberg Submitted a Limited, Clear FOIA Request
Seeking the Costs of Camp 7 Construction and Operation**

19. On April 9, 2009, Ms. Rosenberg submitted a FOIA request (“the Request”) to DOD. A true and correct copy of the Request is attached hereto as Exhibit A.

20. The Request asked DOD to disclose documents that would “reveal how much was spent to build a structure known as Camp 7 at the U.S. Naval Base in Guantánamo Bay, Cuba.” The Request made clear that Ms. Rosenberg specifically sought documents sufficient to disclose “the costs and contracting arrangements for the facility, which Adm. Walsh describes as akin to a U.S. SuperMax.”

21. The Request separately asked for “documents that describe how much it costs to run the facility, which is colloquially known on the ground to be administered by Task Force Platinum, a DOD Unit.”

22. In an undated initial response DOD identified as an “Interim Response,” DOD confirmed receipt of Ms. Rosenberg’s Request on April 10, 2009. A true and correct copy of the Interim Response is attached hereto as Exhibit B.

23. The Interim Response stated that DOD would be unable to respond within the 20-day statutory period under FOIA in light of “(a) the need to search for and collect records from a facility geographically separated from this Office; (b) the potential volume of records responsive to your request; and (c) the need for consultation with one or more other agencies or DoD components having a substantial interest in either the determination or the subject matter of the records.” For these reasons, the Request was assigned to DOD’s “complex processing queue.”

24. DOD then took more than a year to respond substantively to the Request.

DOD Found a Single Responsive Document and Denied the Request

25. By letter dated June 4, 2010, DOD provided its response to the Request (“the Response”). A true and correct copy of the Response is attached hereto as Exhibit C.

26. The Response stated that “[a] search of the record systems maintained by Joint Task Force Guantánamo and the Undersecretary of Defense for Policy ... revealed one record” responsive to the Request, “totaling one page.”

27. The Response denied access to this single page on three grounds, alleging that (1) the document is properly classified and therefore exempt under 5 U.S.C. § 552(b)(1), (2) the document “pertain[s] solely to the internal rules and practices of the agency” and therefore is exempt under 5 U.S.C. § 552(b)(2), and (3) disclosure would “constitute a clearly unwarranted invasion of the personal privacy of individuals” and the document is therefore exempt under 5 U.S.C. § 552(b)(6).

DOD Denied Ms. Rosenberg’s Appeal

28. On June 26, 2010, Ms. Rosenberg timely appealed the Response administratively (“the Appeal”). A true and correct copy of her Appeal is attached hereto as Exhibit D.

29. In the Appeal, Ms. Rosenberg questioned the grounds asserted by DOD for withholding records relating to the costs of Camp 7: “The costs of all other facilities have been made public at Guantánamo without impeding the detention and interrogation mission, the privacy issue is applicable to individuals and surely a company or contractor was involved in this building and the facility’s existence has already been disclosed and described by VADM Walsh.”

30. More than three years passed without a response to her administrative appeal.

31. On August 30, 2013, DOD issued a decision denying the Appeal and affirming the Response (“the DOD Decision”). A true and correct copy of the DOD Decision is attached hereto as Exhibit E.

32. The DOD Decision upheld the refusal to disclose the single document on only two grounds; specifically, because (1) the document is allegedly properly classified and therefore exempt under 5 U.S.C. § 552(b)(1); and (2) disclosure allegedly would “constitute a clearly unwarranted invasion of the personal privacy of individuals,” and the document is therefore exempt under 5 U.S.C. § 552(b)(6). The DOD Decision did not rely on 5 U.S.C. § 552(b)(2).

FIRST CAUSE OF ACTION

(Violation of FOIA for failure to conduct a reasonable search)

33. Ms. Rosenberg repeats, realleges, and incorporates the allegations in the foregoing paragraphs as though fully set forth herein.

34. DOD is an agency subject to FOIA, 5 U.S.C. § 552(f), and therefore had an obligation to conduct a search reasonably calculated to uncover all documents responsive to the Request. DOD's claim to have located only a single, one-page document disclosing the costs of building and operating Camp 7 manifestly fails to satisfy its obligations to collect responsive records under FOIA, 5 U.S.C. § 552(a)(3).

SECOND CAUSE OF ACTION

(Violation of FOIA for failure to make records available)

35. Ms. Rosenberg repeats, realleges, and incorporates the allegations in the foregoing paragraphs as though fully set forth herein.

36. DOD is an agency subject to FOIA, 5 U.S.C. § 552(f), and therefore must disclose in response to a FOIA request all responsive records in its possession at the time of the Request that are not specifically exempt from disclosure under FOIA, and must provide a lawful reason for withholding any documents as to which it is claiming an exemption.

37. DOD's failure promptly to disclose the documents requested by Ms. Rosenberg violates FOIA, 5 U.S.C. § 552(a)(3)(A).

REQUEST FOR RELIEF

WHEREFORE, Ms. Rosenberg respectfully requests that this Court:

- a. Expedite consideration of this Complaint pursuant to 28 U.S.C. § 1657;

- b. Declare that the documents sought by the Request, as described in the foregoing paragraphs, are public records under 5 U.S.C. § 552 and must be disclosed;
- c. Order DOD to provide those documents to Ms. Rosenberg within 20 business days of the Court's order;
- d. Award Ms. Rosenberg the costs of this proceeding, including reasonable attorney's fees, as authorized by FOIA; and
- e. Grant Ms. Rosenberg such other and further relief as this Court deems just and proper.

Dated: October 9, 2013

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: /s/ Chad R. Bowman
Chad R. Bowman, (D.C. Bar No. 484150)
1899 L Street, N.W., Suite 200
Washington, D.C. 20036
Telephone: (202) 508-1100
Fax: (202) 981-9888
E-mail: cbowman@lskslaw.com

David A. Schulz
321 West 44th Street, Suite 1000
New York, NY 10036
Telephone: (212) 850-6100
Fax: (212) 850-6299
E-mail: dschulz@lskslaw.com

Counsel for Plaintiff Carol Rosenberg

EXHIBIT A

The Miami Herald

A McClatchy Newspaper
One Herald Plaza, Miami, Florida 33132-1693 (305) 350-2111

9 April 2009

Department of Defense
FOIA Request
OSD/JS FOIA Requester Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155
FAX: 703-696-4506

Under the Freedom of Information Act, I respectfully request copies of all documents that reveal how much was spent to build a structure known as Camp 7 at the U.S. Navy Base at Guantanamo Bay, Cuba. It is located in the hills behind the headquarters of the Joint Task Force Guantanamo, a region known on the ground as the magazine or bunker area. OSD/PA has no comment on the facility, whose existence has been confirmed by the Vice Chairman of the Joint Chiefs of Staff, Adm. Patrick Walsh in his for-release public version of his report to Secretary Gates examining Geneva Conventions compliance at the detention center, ordered by President Obama Jan. 22.

I am filing with you after trying to determine which division of the Department of Defense would be actually responsible for this special project, under the Joint Task Force Guantanamo. JTF GTMO and Southern Command have said that all information on this topic is control by the institution of the Secretary of Defense, and are effectively gagged on this topic.

We speak specifically any and all documents that describe the costs and contracting arrangements for the facility, which Adm. Walsh describes as akin to a U.S. SuperMax. We also seek any documents that describe how much it costs to run the facility, which is colloquially known on the ground to be administered by Task Force Platinum, a DOD unit.

If all or any part of my request is denied, please list the specific exemption(s) upon which you are relying to withhold the information. If you determine that portions of the requested material are exempt from release, I will expect, as the FOIA requires, that you provide me with the remaining, non-exempt portions.

As a reporter for The Miami Herald, I respectfully request that you waive the search and copying fees as this information is in the public interest.

Very truly yours,

Carol Rosenberg
Military Affairs writer
The Miami Herald
1 Herald Plaza
Miami FL 33132
305-376-3179
305-376-5287 fax

*** PLEASE NOTE: THIS FOIA REQUEST WAS ALSO SUBMITTED THROUGH THE DOD WEBSITE DESIGNATED FOR FREEDOM OF INFORMATION ACT REQUESTS

EXHIBIT B

**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

Ms. Carol Rosenberg
The Miami Herald
1 Herald Plaza
Miami, FL 33132

FREEDOM OF INFORMATION ACT REQUEST INTERIM RESPONSE

CASE NUMBER	DATE OF REQUEST	DATE RECEIVED
09-F-0815	April 9, 2009	April 10, 2009

This is an interim response to your Freedom of Information Act (FOIA) request, received in this Office on the above date. Your request has been assigned the case number indicated above and we ask that you use that number when referring to your request.

We will be unable to respond to your request within the FOIA's 20 day statutory time period as there are unusual circumstances which impact on our ability to quickly process your request. These unusual circumstances are: (a) the need to search for and collect records from a facility geographically separated from this Office; (b) the potential volume of records responsive to your request; and (c) the need for consultation with one or more other agencies or DoD components having a substantial interest in either the determination or the subject matter of the records. For these reasons, your request has been placed in our complex processing queue and will be worked in the order the request was received. Our current administrative workload is 2200 open requests.

If you would like to discuss how to modify your request in order to speed the processing time, we would be pleased to discuss this with you. The action officer assigned to your request is Kelly McHale and may be reached at (703) 696-3053. You may also write to this Office at the above address. The toll free number for this Office is 866-574-4970.

You may not be aware that we maintain a website and electronic reading room at:
<http://www.dod.mil/pubs/foi/>.

EXHIBIT C



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

JUN 04 2010

Ref: 09-F-0815

Carol Rosenberg
The Miami Herald
1 Herald Plaza
Miami, FL 33132

Dear Ms. Rosenberg,

This is the final response to your April 09, 2009, Freedom of Information Act (FOIA) request seeking "all documents that reveal how much was spent to build a structure known as Camp 7 at the U.S. Navy Base at Guantanamo Bay, Cuba." A search of the records systems maintained by Joint Task Force Guantanamo and the Undersecretary of Defense for Policy (USD(P)) revealed one record responsive to your request.

Mr. William K. Lietzau, Deputy Under Secretary of Defense for Detainee Policy(DP), an Initial Denial Authority for the USD(P)DP, has determined that the document, totaling one page, is exempt from release in its entirety pursuant to 5 U.S.C. § 552 b(1), which pertains to information that is currently and properly classified pursuant to Executive Order 12958, as amended, Section 1.4(c) which pertains to Intelligence activities, and intelligence sources or methods; 5 U.S.C. § 552(b)(2), which pertains solely to the internal rules and practices of the agency, and would allow circumvention of an agency rule, policy, or statute, thereby impeding the agency in the conduct of its mission; and 5 U.S.C. § 552(b)(6) which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of individuals.

If you are not satisfied with this action, you may appeal to the appellate authority, the Director of Administration and Management, Office of the Secretary of Defense, by writing directly to the Defense Freedom of Information Policy Office, Attn: Mr. James Hogan, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Your appeal should be postmarked within 60 calendar days of the date of this letter, should cite to case number 09-F-0815, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

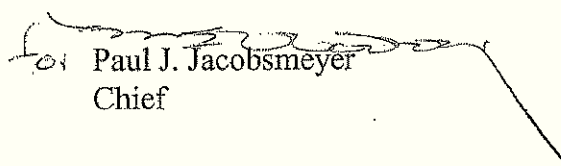

Paul J. Jacobsmeyer
Chief

EXHIBIT D

The Miami Herald

A McClatchy Newspaper
One Herald Plaza, Miami, Florida 33132-1693 (305) 350-2111

26 June 2010

Department of Defense
Director of Administration Management
Office of the Secretary of Defense
Defense Freedom of Information Policy Office
Attention Mr. James Hogan
1155 Defense Pentagon
Washington, DC 20301-1155
FAX: 703-696-4506

CASE NUMBER 09-F-0815

Dear Mr. Hogan,

Under the Freedom of Information Act, I am respectfully requesting that you consider our appeal of Paul J. Jacobsmeyer's June 4 rejection of our April 9, 2009 Freedom of Information Act in the case numbered 09-F-0815. Mr. Jacobsmeyer writes in the attached correspondence that his office uncovered a single piece of paper responsive to our request for documents that reveal how much was spent to build a structure known as Camp 7 at the U.S. Navy Base at Guantanamo Bay, Cuba, whose existence was confirmed and described by the Vice Chairman of the Joint Chiefs of Staff, Adm. Patrick Walsh in his public version of a report he submitted to Secretary Gates examining Geneva Conventions compliance at the detention center, ordered by President Obama on Jan. 22, 2009.

OSD/PA has no comment on the cost of facility, or name of the contractor who built it. This was a special project of the Department of Defense, under the Joint Task Force Guantanamo and both JTF GTMO and Southern Command have said that all information on this topic is controlled by the Office of the Secretary of Defense. Mr. Jacobsmeyer writes that the DASD-Detainee Affairs, Mr. William Lietzau, has concluded that we are not entitled to the single page that is responsive to our request, and advises that we may appeal to you, Mr. Hogan.

Mr. Jacobsmeyer invokes three reasons for shielding the price of the project -- it's an intelligence activity, disclosure would invade personal privacy and could impede the mission. The costs of all other facilities have been made public at Guantanamo without impeding the detention and interrogation mission, the privacy issue is applicable to individuals and surely a company or contractor was involved in this building and the facility's existence has already been disclosed and described by VADM Walsh.

If you determine that portions of the requested material are exempt from release, I will expect, as the FOIA requires, that you provide me with the remaining, non-exempt portions. Should you wish to discuss this, my office number is (305) 376-3179 and cell is (305) 742-8590.

Very truly yours,



Carol Rosenberg
Military Affairs writer
The Miami Herald

EXHIBIT E



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

Ref: 09-A-0815
09-F-0815

Ms. Carol Rosenberg
Military Affairs Writer
The Miami Herald
1 Herald Plaza
Miami, FL 33132-1693

AUG 30 2013

Dear Ms. Rosenberg:

This responds to your June 26, 2010, Freedom of Information Act appeal of the June 4, 2010, response from the Office of Freedom of Information which denied in full one responsive document. I am sorry that this response was not provided in a more timely manner.

I have reviewed the denied information at the appellate level and, after careful consideration, am affirming the initial determination to deny the document in its entirety. Some of the withheld information remains exempt from release because it is currently and properly classified in accordance with Executive Order 13526, Section 1.4 (c), as it pertains to intelligence activities (including covert action), intelligence sources or methods, or cryptology. Finally, some information is withheld because release would constitute a clearly unwarranted invasion of the personal privacy of individuals. This denied document does not contain meaningful portions that are reasonably segregable. Consequently, I must deny this information pursuant to 5 U.S.C. § 552(b)(1) and (b)(6).

You have the right to judicial review of this decision in a United States District Court, in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in black ink, appearing to read "W.E. Brazis", is written over a horizontal line.

William E. Brazis
Deputy Director

☐ 480 Consumer Credit

☐ 490 Cable/Satellite TV

☐ 850 Securities/Commodities/
Exchange

☐ 896 Arbitration

☐ 899 Administrative Procedure
Act/Review or Appeal of
Agency Decision

☐ 950 Constitutionality of State
Statutes

☐ 890 Other Statutory Actions
(if not administrative agency
review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) <i>*(If pro se, select this deck)*</i>	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Remand from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C §552 (a)(4)(B)-The Department of Defense has improperly withheld documents requested by Plaintiff under FOIA

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 10/9/2013	SIGNATURE OF ATTORNEY OF RECORD: <u>Chad R. Bann</u>
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAROL ROSENBERG

Plaintiff

v.

UNITED STATES DEPARTMENT OF DEFENSE

Defendant

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)
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)
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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

United States Department of Defense
1600 Defense Pentagon
Washington, D.C. 20301-1600

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Chad Bowman
Levine Sullivan Koch & Schulz, LLP
1899 L Street, N.W. Suite 200
Washington, D.C. 20036
(202) 508-1100

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

FOIA Summons (12/11) (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAROL ROSENBERG

Plaintiff

v.

UNITED STATES DEPARTMENT OF DEFENSE

Defendant

)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
United States Attorney's Office
555 4th Street, N.W.
Washington, D.C. 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Chad Bowman
Levine Sullivan Koch & Schulz, LLP
1899 L Street, N.W. Suite 200
Washington, D.C. 20036
(202) 508-1100

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

FOIA Summons (12/11) (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAROL ROSENBERG

Plaintiff

v.

UNITED STATES DEPARTMENT OF DEFENSE

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Office of United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Chad Bowman
Levine Sullivan Koch & Schulz, LLP
1899 L Street, N.W. Suite 200
Washington, D.C. 20036
(202) 508-1100

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

FOIA Summons (12/11) (Page 2)

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Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: