

UNITED STATES DISTRICT COURT FOR THE
DISTRICT of COLUMBIA

FILED
NOV 23 2010
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

MEDIA RESEARCH CENTER)
)
325 South Patrick Street)
Alexandria, Virginia 22314)

Plaintiff)

v.)

U.S. DEPARTMENT OF JUSTICE)

Serve: Ronald C. Machen, Jr.)
U.S. Attorney for the)
District of Columbia)
555 4th Street, N.W.)
Washington, D.C. 20530)

And)

Eric H. Holder)
United States Attorney General)
U.S. Department of Justice)
950 Pennsylvania Avenue, NW)
Washington, DC 20530-0001)

AND)

THE SOLICITOR GENERAL)
OF THE UNITED STATES)

Serve: Ronald C. Machen, Jr.)
U.S. Attorney for the)
District of Columbia)
555 4th Street, N.W.)
Washington, D.C. 20530)

And)

Case: 1:10-cv-02013
Assigned To : Huvelle, Ellen S.
Assign. Date : 11/23/2010
Description: FOIA/Privacy Act

Eric H. Holder)
United States Attorney General)
U.S. Department of Justice)
950 Pennsylvania Avenue, NW)
Washington, DC 20530-0001)
)
)
)
Defendants)
_____)

COMPLAINT

Plaintiff, MEDIA RESEARCH CENTER (MRC) hereby files this complaint for compliance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (“FOIA”). As grounds, Plaintiff respectfully states as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346(a)(2) (United States as defendant) and 5 U.S.C. § 552(a)(4)(B) (FOIA).
2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff, Media Research Center, is a non-stock Delaware corporation qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code with its principal place of business at 325 South Patrick Street, Alexandria, Virginia 22314.

4. Defendant United States Department of Justice (“DOJ”) is an agency and entity of the United States Government. Defendant DOJ has its principal place of business in the District of Columbia. Defendant DOJ has possession of the documents to which Plaintiff seeks access.

5. Defendant Office of the Solicitor General (“OSG”) is an agency and entity of the United States Government within the DOJ. Defendant OSG has its principal place of business in the District of Columbia. Defendant OSG has possession of the documents to which Plaintiff seeks access.

COUNT I

6. Plaintiff MRC filed with Defendant DOJ on May 25, 2010 via email and U.S. mail a FOIA request (attached as Exhibit 1) in the form of a letter to Defendant DOJ's FOIA officer, requesting access to certain records under the FOIA. Access was requested to:

A. Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the administration’s health-care reform plan was a topic.

B. Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which legal challenges to the health-care reform bill signed by President Barack Obama was a topic.

C. Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the question of whether Solicitor General Elena Kagan ought to recuse herself from involvement in any particular case in her role as solicitor general due to the prospect that it might later come before her were she to be confirmed to a seat on a federal court was discussed.

7. By letter dated June 22, 2010, Valerie Hall, Executive Officer of the OSG, acknowledged receipt of plaintiff MRC’s May 25, 2010 FOIA requests and claimed that the

documents sought in those requests were exempt from disclosure under 5 U.S.C. § 552(b)(2).

Exhibit 2.

8. By letter dated June 25, 2010, Ms. Hall withdrew her June 22, 2010 claim of exemption and asked for clarification of two of the three categories of documents requested by plaintiff MRC in its May 25, 2010 FOIA request. Exhibit 3.

9. By letter dated June 25, 2010, plaintiff MRC replied to Ms. Hall's letter of the same date modifying its first and third categories of requested documents and restating its second category of requested documents as follows:

A. Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the administration's health-care reform plan was a topic.

B. Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which legal challenges to the health-care reform bill signed by President Barack Obama was a topic.

C. Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the question of whether Solicitor General Elena Kagan ought to recuse herself from involvement in any particular case in her role as solicitor general due to the prospect that it might later come before her were she to be confirmed to a seat on a federal court was discussed.

Exhibit 4.

10. As of the date of filing of this Complaint, plaintiff MRC has not received a substantive response to its June 25, 2010 modified FOIA request.

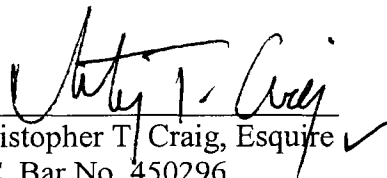
11. As of the date of filing of this Complaint, plaintiff has not received any documents in response to its June 25, 2010 modified FOIA request.

12. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), plaintiff MRC is deemed to have exhausted its administrative remedies with respect to its request to defendants.

13. Pursuant to 5 U.S.C. § 552(a)(3), plaintiff MRC has a right of access to the documents requested in its FOIA requests, and defendants have no legal basis for refusing to disclose these documents to plaintiff.

WHEREFORE, plaintiff asks this Court to: (1) declare that defendants' refusal to disclose the documents requested by plaintiff MRC is unlawful; (2) order defendants to make the requested documents available to plaintiff MRC; (3) award plaintiff MRC its costs and reasonable attorney's fees in this action; and (4) grant such other and further relief as the Court may deem just and proper.

MEDIA RESEARCH CENTER
By Counsel



Christopher T. Craig, Esquire ✓
D.C. Bar No. 450296
Robert R. Sparks, Jr.
D.C. Bar No. 219444
Sparks & Craig, LLP
6862 Elm Street, Suite 360
McLean, Virginia 22101
703/848-4700 – telephone
703/893-7371 - facsimile

May 25, 2010

Kaletus McCain
Office of the Solicitor General
Department of Justice
Room 6640, 950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
(202) 514-2203

Dear Kaletus McCain:

This is a request under the Freedom of Information Act, 5 U.S.C. Sec.552.

I request that copies of the following records be provided to me:

--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the administration's health-care reform plan was a topic.

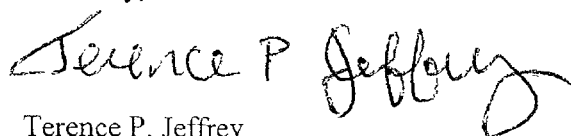
--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which legal challenges to the health-care reform bill signed by President Barack Obama was a topic.

--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the question of whether Solicitor General Elena Kagan ought to recuse herself from involvement in any particular case in her role as solicitor general due to the prospect that it might later come before her were she to be confirmed to a seat on a federal court was discussed.

I am the Editor in Chief of CNSNews.com, an online news agency, and this request is made as part of the news gathering operations of CNSNews.com.

Thank you for your consideration of this request. If you have any questions, please do not hesitate to contact me at the number below.

Sincerely,



Terence P. Jeffrey
325 South Patrick Street
Alexandria, Va. 22314
(703) 683-9733

CNSNews.com
Cybercast News Service™

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Alexandria, VA 22314

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www.CNSNews.com

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of the Media Research Center

Blumberg No. 5113
PLAINTIFF'S
EXHIBIT
1



U.S. Department of Justice
Office of the Solicitor General

Washington, D.C. 20530

June 22, 2010

VIA U.S. MAIL

Mr. Terence P. Jeffrey
CNSNews.com
325 S. Patrick St.
Alexandria, VA 22314

Re: Freedom of Information Act / Privacy Act Request Dated May 25, 2010

Dear Mr. Jeffrey:

This is in response to your Freedom of Information Act (FOIA) request to the Office of the Solicitor General (OSG), dated May 25, 2010. You requested records of communications to or from Solicitor General Elena Kagan (and notations of meetings attended by Kagan) on the following topics: the Obama Administration's health-care reform plan, legal challenges to the health-care bill signed by the President, and recusal of Solicitor General Kagan from involvement in any particular case (in her role as Solicitor General). Your request was received by this office on May 25, 2010.

We have determined that any documents you seek are exempt from disclosure for the following reason:

- 5 U.S.C. 552(b)(5): Information consists of inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

The fees associated with the processing of your request are waived in this instance.

Because your request has been denied, you are advised of your right to appeal this determination, in writing, to the Office of Information Policy, U.S. Department of Justice, Suite 11050, 1425 New York Avenue, N.W., Washington, D.C. 20530-0001 pursuant to the provisions of 28 C.F.R. § 16.9.

Your appeal must be postmarked or transmitted by facsimile within 60 calendar days from the date of this letter to be considered. Both the front of the envelope and the administrative appeal letter should contain the notation "Freedom of Information Act Appeal." The Office of Information Policy also accepts administrative appeals by facsimile if sent to (202) 514-1009.

Sincerely,

A handwritten signature in black ink, appearing to read "Valerie H. Hall", written over a faint, larger signature.

Valerie H. Hall
Executive Officer
Office of the Solicitor General





U.S. Department of Justice
Office of the Solicitor General

Executive Officer

Washington, D.C. 20530

June 25, 2010

**SENT VIA MAIL
& EMAIL**

Mr. Terence P. Jeffrey
CNSNews.com
325 S. Patrick St.
Alexandria, VA 22314

Re: Freedom of Information Act / Privacy Act Request Dated May 25, 2010

Dear Mr. Jeffrey:

This is in response to your letter of May 25, 2010, requesting certain documents under the Freedom of Information Act, which was received on May 25, 2010.

Previously, a letter dated June 22, 2010 was sent to you over my signature in response to your May 25, 2010 request, stating that the records you seek are exempt under 5 U.S.C. 552(b)(2). That letter was sent in error.

In your May 25 letter, you requested letters in three categories:

- Any communication to or from Solicitor General Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Kagan in which the administration's health-care reform plan was a topic;
- Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting personally or electronically by Solicitor General Elena Kagan in which legal challenges to the health-care reform bill signed by President Barack Obama was a topic;
- Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the question of whether Solicitor General Elena Kagan ought to recuse herself from involvement in any particular case in her role as solicitor general due to the prospect that it might later come before her were she to be confirmed to a seat on a federal court was discussed.

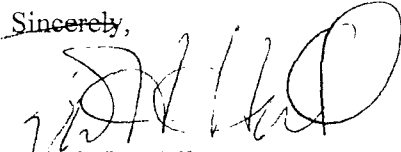
It is unclear from your request what you mean by the phrase, "the administration's health-care reform plan," in your request for the first category of records. We would appreciate clarification of this phrase so that we can conduct an appropriate search.



Additionally, it is unclear from your request whether the third category of records, like the other two, focuses on health-care, and whether the particular cases referred to in that third category thus are cases concerning the health-care legislation. We would appreciate clarification of the scope of your request on this point.

Once we receive clarification, we will promptly process your request.

Sincerely,



Valerie H. Hall
Executive Officer
Office of the Solicitor General

June 25, 2010

Valerie H. Hall
Executive Officer
Office of the Solicitor General

Dear Ms. Hall:

Thank you for your letter, delivered by email today, with your questions about my May 25 Freedom of Information Act request. I hope this letter answers those questions.

My May 25 request asked for the following:

--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the administration's health-care reform plan was a topic.

--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which legal challenges to the health-care reform bill signed by President Barack Obama was a topic.

--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which the question of whether Solicitor General Elena Kagan ought to recuse herself from involvement in any particular case in her role as solicitor general due to the prospect that it might later come before her were she to be confirmed to a seat on a federal court was discussed.

Your letter of today indicated you had questions about the first and third categories of my request. First, you wrote: "It is unclear from your request what you mean by the phrase, 'the administration's health-care reform plan,' in your request for the first category of records." Please consider that category to mean the following:

--Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which then-pending legislative health-care proposals were discussed.

As for the third category of my request, you wrote: "Additionally, it is unclear from your request whether the third category of records, like the other two, focuses on health care, and whether the particular cases referred to in that third category thus are cases concerning health-care legislation."

My answer is that this category does not focus solely on cases concerning health-care legislation but literally on "any particular case." So I reiterate that request as originally formulated.



Finally, I note that you did not raise any questions about the second category of my request. (“Any communication to or from Solicitor General Elena Kagan and any record or notation of any meeting attended personally or electronically by Solicitor General Elena Kagan in which legal challenges to the health-care reform bill signed by President Barack Obama was a topic.”) I trust, therefore, that you understood this category and do not need further clarification regarding it.

I very much appreciate that you intend to promptly process this request. Please do not hesitate to call me or email me if there is anything I can do to help you do so.

Sincerely,

Terence P. Jeffrey
Editor in Chief, CNSNews.com
(703) 683-9733

10-2013
ESH

CIVIL COVER SHEET

JS-44
(Rev. 1/05 DC)

<p>I (a) PLAINTIFFS</p> <p>MEDIA RESEARCH CENTER</p> <hr/> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <hr/> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>CHRISTOPHER T. CRAIG, ESQUIRE SPARKS & CRAIG, LLP SUITE 360 6862 ELM STREET McLEAN, VIRGINIA 22101</p>	<p>DEFENDANTS</p> <p>U.S. DEPARTMENT OF JUSTICE and THE SOLICITOR GENERAL OF THE UNITED STATES</p> <hr/> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE. IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p> <hr/> <p>Case: 1:10-cv-02013 Assigned To : Huvelle, Ellen S. Assign. Date : 11/23/2010 Description: FOIA/Privacy Act</p>
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<p>II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant</p> <p><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p>Social Security:</p> <p><input type="checkbox"/> 861 HIA ((1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g)</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g)</p> <p>Other Statutes</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p><i>*(If Antitrust, then A governs)*</i></p>
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E. General Civil (Other) **OR** **F. Pro Se General Civil**

<p>Real Property</p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p>Personal Property</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>Bankruptcy</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>Prisoner Petitions</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p>Property Rights</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>Federal Tax Suits</p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>	<p>Forfeiture/Penalty</p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 RR & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p>Other Statutes</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p>	<p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Satellite TV</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act</p>
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2

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation) *(If pro se, select this deck)*	<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) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (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"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway 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"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<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

Original Proceeding
 2 Removed 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; REFUSAL TO PRODUCE DOCUMENTS PER FOIA REQUEST

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ Check YES only if demanded in complaint

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instruction) YES NO If yes, please complete related case form.

DATE NOVEMBER 22, 2010 SIGNATURE OF ATTORNEY OF RECORD [Signature]

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 service 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 is resident of Washington, D C ; 88888 if plaintiff is resident of the United States but not of Washington, D.C., 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 case.
- VI. CAUSE OF ACTION: Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASES, 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.

57