

**U.S. District Court
District of Oregon (Portland (3))
CIVIL DOCKET FOR CASE # 3:13-cv-00992-HZ**

Lewis v. Federal Aviation Administration et al
Assigned to: Judge Marco A. Hernandez
Cause: 05:552 Freedom of Information Act

Date Filed: 06/14/2013
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**Jeffrey Nathan Lewis**

represented by **Jeffrey Nathan Lewis**
28242 S. Salo Road
Mulino, OR 97042
971-295-7669
PRO SE

V.

Defendant**Federal Aviation Administration**

represented by **Kevin C. Danielson**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Michael Huerta
FAA Administrator

represented by **Kevin C. Danielson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/14/2013	<u>1</u>	Complaint. Filing fee in the amount of \$400 collected. Receipt No. 52718. Jury Trial Requested: No. Filed by Jeffrey Nathan Lewis against All Defendants (Attachments: # <u>1</u> Civil Cover Sheet). (ecp) (Entered: 06/19/2013)
06/19/2013	<u>2</u>	Notice of Case Assignment: This case is assigned to Judge Marco A. Hernandez. (ecp) (Entered: 06/19/2013)
06/19/2013	<u>3</u>	Discovery and Pretrial Scheduling Order. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5. Discovery is to be completed by 10/17/2013. Joint Alternate Dispute Resolution Report is due by 11/18/2013. Pretrial Order is due by 11/18/2013. Ordered by Judge Marco A. Hernandez. (sss) (Entered: 06/19/2013)
06/19/2013	4	Clerk's Notice of Mailing to Jeffrey Nathan Lewis regarding Notice of Case Assignment <u>2</u> , Discovery and Pretrial Scheduling Order <u>3</u> . (sss) (Entered: 06/19/2013)
06/28/2013	<u>5</u>	Summons Issued as to Michael Huerta. (ecp) (Entered: 07/01/2013)
08/08/2013	<u>6</u>	Summons Returned Executed as to Michael Huerta served on 7/15/2013, answer due on 8/5/2013. Filed by Jeffrey Nathan Lewis. (ecp) (Entered: 08/12/2013)

08/08/2013	<u>7</u>	Plaintiff's Memorandum Presenting Details of His Complaint. Filed by Jeffrey Nathan Lewis. (Attachments: # <u>1</u> Exhibit 1–10, # <u>2</u> Exhibit 11–16, # <u>3</u> Exhibit 17–34) (ecp) (Entered: 08/12/2013)
09/18/2013	<u>8</u>	Summons Issued as to U.S. Department of Justice, US Attorney, Oregon and Attorney General of the United States. (Attachments: # <u>1</u> issued summons) (ecp) (Entered: 09/19/2013)
10/10/2013	<u>9</u>	Summons Returned Executed as to U.S Attorney General of the United States, served on 9/26/2013 Filed by Jeffrey Nathan Lewis. (ecp) (Entered: 10/10/2013)
10/10/2013	<u>10</u>	Summons Returned Executed as to U.S. Department of Justice, United States Attorney, District of Oregon served on 9/18/2013 Filed by Jeffrey Nathan Lewis. (ecp) (Entered: 10/10/2013)
10/17/2013	<u>11</u>	Unopposed Motion for Extension of Time to Answer Complaint <u>1</u> . Filed by Federal Aviation Administration, Michael Huerta. (Danielson, Kevin) (Entered: 10/17/2013)
10/17/2013	12	ORDER: Granting Defendant's Unopposed Motion for Extension of Time to Answer <u>11</u> . Answer/Response is due by 11/1/2013. Ordered by Judge Marco A. Hernandez. Copy of this order mailed to plaintiff. (mr) (Entered: 10/17/2013)
10/31/2013	<u>13</u>	Answer to <u>1</u> Complaint . Filed by Federal Aviation Administration, Michael Huerta. (Danielson, Kevin) (Entered: 10/31/2013)
11/19/2013	14	Scheduling Order by Judge Marco A. Hernandez. At the request of the parties, Rule 16 Conference is SET for 12/2/2013 at 11:30AM in Telephone before Judge Marco A. Hernandez. The parties shall call into the court's conference line (the phone number provided via separate email) five minutes prior to the scheduled conference time. The court will join the conference at or shortly after the appointed time. Local Rules 16–2(b) and 26–1(a)(b) require that counsel confer prior to the conference. At the conference, counsel should be prepared to discuss the status of the case, relevant dates and deadlines, and any other significant issues. If consents to Magistrate Judge are going to be filed, it is helpful if they are filed prior to the time of the conference. If the parties plan on presenting a proposed schedule, it is helpful if they email that to the courtroom deputy by noon the day before the hearing. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 11/19/2013)
11/19/2013	15	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Scheduling Order 14 and call–in instructions. Both items were emailed to Mr. Lewis on 11/19/2013. (mr) (Entered: 11/19/2013)
12/02/2013	16	MINUTES of Proceedings: Rule 16 Conference. Judge Marco A. Hernandez presiding. ORDER: FAA to produce all documents to plaintiff by 12/20/2013. Plaintiff to inform the FAA which documents are disputed by 1/20/2014. All Dispositive Motions are due by 3/20/2014; responses and replies are due pursuant to Federal Rules of Civil Procedure. Oral Argument is set for 6/23/2014 at 02:00PM in Portland Courtroom 14B before Judge Marco A. Hernandez. Jeffrey Nathan Lewis, pro se plaintiff present as counsel for plaintiff(s). AUSA Kevin C. Danielson present as counsel for defendant(s). Court Reporter: Nancy Walker. (mr) (Entered: 12/02/2013)
12/02/2013	17	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Minutes of Proceedings of Rule 16 Conference 16 . (mr) (Entered: 12/02/2013)
03/19/2014	<u>18</u>	Joint Motion for Extension of Time <i>Joint Motion to Modify Scheduling Order</i> . Filed by Federal Aviation Administration, Michael Huerta. (Danielson, Kevin) (Entered: 03/19/2014)
03/25/2014	19	ORDER: Granting Joint Motion to Modify Scheduling Order <u>18</u> . All Dispositive Motions are due by 5/20/2014. Responses and replies are due pursuant to Federal Rules of Civil Procedure. Oral argument previously set for 6/23/2014 is STRICKEN and shall be reset as determined by the court. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 03/25/2014)

03/25/2014	20	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Order 19 . (mr) (Entered: 03/25/2014)
05/19/2014	<u>21</u>	Joint Motion for Extension of Time . Filed by Federal Aviation Administration, Michael Huerta. (Danielson, Kevin) (Entered: 05/19/2014)
05/19/2014	22	ORDER: Granting Joint Motion for Extension of Time <u>21</u> . All Dispositive Motions are due by 7/21/2014. Responses and replies are due pursuant to Federal Rules of Civil Procedure. Oral argument to be set as determined by the court. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 05/19/2014)
05/19/2014	23	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Order 22 . (mr) (Entered: 05/19/2014)
07/16/2014	<u>24</u>	Unopposed Motion for Extension of Time . Filed by Federal Aviation Administration, Michael Huerta. (Danielson, Kevin) (Entered: 07/16/2014)
07/17/2014	25	ORDER: Granting Defendants' Unopposed Motion for Extension of Time <u>24</u> . Dispositive Motions are due by 8/11/2014. The parties are advised that no further extensions of this deadline will be considered without conference with the court. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 07/17/2014)
07/17/2014	26	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Order 25 . (mr) (Entered: 07/17/2014)
08/11/2014	<u>27</u>	Motion for Summary Judgment <i>and Memorandum in Support</i> . Filed by All Defendants. (Danielson, Kevin) (Entered: 08/11/2014)
08/11/2014	<u>28</u>	Affidavit of Jeb Kreischer . Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>27</u> .) (Attachments: # <u>1</u> Exhibit 1) (Danielson, Kevin) Modified on 8/12/2014 to change docket text to correct document title (dsg). (Entered: 08/11/2014)
08/11/2014	<u>29</u>	Declaration of Kevin Danielson . Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>27</u> .) (Attachments: # <u>1</u> Exhibit 1) (Danielson, Kevin) (Entered: 08/11/2014)
08/11/2014	<u>30</u>	Plaintiff's Motion for Summary Judgment. Filed by Jeffrey Nathan Lewis. (Attachment: # <u>1</u> Attachment) (dsg) (Main Document replaced on 8/13/2014 with corrected PDF to remove separately filed declaration.) (eo). (Entered: 08/13/2014)
08/11/2014	<u>31</u>	Declaration of Jeffrey N. Lewis. Filed by Jeffrey Nathan Lewis. (Related document: Motion for Summary Judgment <u>30</u> .) (dsg) (Entered: 08/13/2014)
08/13/2014	32	Order for Administrative Correction of the Record pursuant to Fed. R. Civ. P. 60(a) regarding Motion for Summary Judgment (# <u>30</u>) filed by Jeffrey Nathan Lewis. A Clerical error has been discovered in the case record. The Clerk is directed to make the following administrative corrections to the record: The PDF initially attached to this entry included the separately filed declaration (# <u>31</u>). A corrected PDF has been attached to remove the declaration, and notice will be regenerated to all parties. (eo) (Entered: 08/13/2014)
09/02/2014	<u>33</u>	Response to Motion for Summary Judgment <u>30</u> . Filed by Federal Aviation Administration, Michael Huerta. (Danielson, Kevin) (Entered: 09/02/2014)
09/02/2014	<u>34</u>	Affidavit of Jeb Kreischer <i>First Partial Amended Affidavit of Jeb Kreischer</i> . Filed by Federal Aviation Administration, Michael Huerta. (Related document(s): Response to Motion <u>33</u> .) (Danielson, Kevin) Modified on 9/3/2014 to correct docket text (dsg). (Entered: 09/02/2014)
09/02/2014	<u>35</u>	Motion for Extension of Time (unopposed) to File a Response to Motion for Summary Judgment <u>27</u> . Filed by Jeffrey Nathan Lewis. (mr) (Entered: 09/03/2014)
09/03/2014	36	ORDER: Granting Plaintiff's (unopposed) Motion for Extension of Time <u>35</u> . to File Response. Plaintiff's Response to Defendant's Motion for Summary Judgment is due by 9/10/2014. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 09/03/2014)

09/03/2014	37	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Order 36 . (mr) (Entered: 09/03/2014)
09/10/2014	<u>38</u>	Response to Motion for Summary Judgment <i>and Memorandum in Support 27</i> . Filed by Jeffrey Nathan Lewis. (Attachments: # <u>1</u> Exhibits) (dsg) (Entered: 09/11/2014)
09/10/2014	<u>39</u>	Affidavit of Don Hiebert. Filed by Jeffrey Nathan Lewis. (dsg) (Entered: 09/11/2014)
09/17/2014	<u>40</u>	Motion for Oral Argument. Filed by Jeffrey Nathan Lewis. (sm) (Entered: 09/19/2014)
09/24/2014	<u>41</u>	Reply to Motion for Summary Judgment <i>and Memorandum in Support 27</i> . Filed by Federal Aviation Administration, Michael Huerta. (Attachments: # <u>1</u> Attachment 1, # <u>2</u> Attachment 2) (Danielson, Kevin) (Entered: 09/24/2014)
09/25/2014	42	ORDER: Granting Motion for Oral Argument <u>40</u> . Oral Argument is SET for 10/10/2014 at 10:00AM in Portland Courtroom 14B before Judge Marco A. Hernandez. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 09/25/2014)
09/25/2014	43	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Order 42 . (mr) (Entered: 09/25/2014)
10/10/2014	44	MINUTES of Proceedings: Motion Hearing. Judge Marco A. Hernandez presiding. ORDER: Having waited 15 minutes for plaintiff to appear and after calling the phone number listed for plaintiff with no answer, the hearing on the motions is vacated. The matters are taken under advisement. No appearance by pro se plaintiff. present as counsel for plaintiff(s). AUSA Kevin C. Danielson present as counsel for defendant(s). Court Reporter: Dennis Apodaca. (mr) (Entered: 10/14/2014)
10/14/2014	45	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Minutes of Proceedings 44 . (mr) (Entered: 10/14/2014)
10/14/2014	46	Scheduling Order by Judge Marco A. Hernandez regarding Motion for Summary Judgment <u>27</u> , and Motion for Summary Judgment <u>30</u> . The Plaintiff requests resetting of the oral argument on the basis that he did not receive the scheduling order setting the matter for 10/10/2014. The Court grants Plaintiff's telephone request to reset the oral argument as follows: Oral Argument is SET for 11/17/2014 at 11:00AM in Portland Courtroom 14B before Judge Marco A. Hernandez. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 10/14/2014)
10/17/2014	47	Clerk's Notice of Mailing to Jeffrey Nathan Lewis copy of Scheduling Order (#46) on 10/17/2014. (bb) (Entered: 10/17/2014)
11/17/2014	<u>48</u>	Supplement <i>Supplemental Attachment to Defendants' Reply Brief</i> . Filed by Federal Aviation Administration, Michael Huerta. (Related document(s): Reply to Motion <u>41</u> .) (Attachments: # <u>1</u> Attachment 3) (Danielson, Kevin) (Entered: 11/17/2014)
11/17/2014	49	MINUTES of Proceedings: Motion Hearing Held regarding Motions for Summary Judgment <u>27</u> and <u>30</u> . Judge Marco A. Hernandez presiding. The matters are argued. The FAA is ordered to provide: 1) the unredacted ATSAP report and 2) the unredacted ROI (regarding the swastika incident) to the court, in camera, within 10 days. The matter will then be taken under advisement. Jeffrey Nathan Lewis, pro se plaintiff present. AUSA Kevin C. Danielson present as counsel for defendant(s). Court Reporter: Karen Eichhorn. (mr) (Entered: 11/18/2014)
11/18/2014	50	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Minutes of Proceedings 49 . (mr) (Entered: 11/18/2014)
11/25/2014	<u>51</u>	Motion, titled "Plaintiff's Suggestion for an Alternative Source of the In Camera 'ATSAP' Record." Filed by Jeffrey Nathan Lewis. (dsg) (Entered: 11/26/2014)
12/01/2014	<u>52</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Motion Hearing held on 11/17/2014 before Judge Marco Hernandez, Court Reporter Karen M. Eichhorn, telephone number 503-936-4805. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained

		through PACER—See Policy at ord.uscourts.gov . Notice of Intent to Redact Transcript is due by 12/11/2014. Redaction Request due 12/29/2014. Redacted Transcript Deadline set for 1/5/2015. Release of Transcript Restriction set for 3/5/2015. (sm) (Entered: 12/01/2014)
12/01/2014	53	Clerk's Notice of Mailing to Plaintiff. Copy of notice of Filing of Transcript (#52). (sm) (Entered: 12/01/2014)
12/12/2014	<u>54</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS (CORRECTED) FILED. Motion Hearing held on 11/17/2014 before Judge Marco Hernandez, Court Reporter Karen M. Eichhorn, telephone number 503-936-4805. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER—See Policy at ord.uscourts.gov. Original Transcript <u>52</u> . Redaction Request due 12/29/2014. Redacted Transcript Deadline set for 1/5/2015. Release of Transcript Restriction set for 3/5/2015. Copy of this Notice of Filing CORRECTED Transcript sent to Plaintiff. (sm) (Entered: 12/12/2014)
01/06/2015	<u>55</u>	OPINION & ORDER: Defendants' motion for summary judgment <u>27</u> is granted in part and denied in part. Plaintiff's motion for summary judgment <u>30</u> is granted in part and denied in part. The claims related to all FOIA requests except FOIA Request No. 2012-2082 and FOIA Request No. 2012-7031, are dismissed on Plaintiff's oral motion. Defendants' motion as to FOIA Request No. 2012-2081 is granted. Plaintiff's motion as to this same request is denied. Defendants' motion as to FOIA Request No. 2012-7031 is granted except as to the ROI. Plaintiff's motion as to FOIA Request No. 2012-7031 is denied except as to the ROI. Defendants shall submit a proposed redacted copy of the ROI to this Court in camera within ten days of the date of this Opinion & Order. See 27-page opinion & order attached. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 01/07/2015)
01/07/2015	56	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Opinion & Order <u>55</u> . (mr) (Entered: 01/07/2015)
01/08/2015	57	ORDER: Finding as Moot Motion <u>51</u> . Ordered by Judge Marco A. Hernandez. (mr) (Entered: 01/08/2015)
01/08/2015	58	Clerk's Notice of Mailing to Plaintiff Jeffrey Nathan Lewis regarding Order 57 . (mr) (Entered: 01/08/2015)
01/20/2015	59	ORDER: In the January 6, 2015 Opinion & Order <u>55</u> , I ordered Defendants to produce to Plaintiff a redacted copy of the Report of Investigation (ROI) discussed at pages 18-19, 21-26 of the January 6, 2015 Opinion & Order. Before actually producing the document to Plaintiff, however, I ordered Defendants to submit a proposed redacted copy of the document in camera to allow me to review Defendants' redactions. Defendants submitted the proposed redacted version of the ROI to me on January 16, 2015, along with a red-lined version showing the information that was redacted. I have now reviewed the document and find Defendants' proposed redactions consistent with my rulings in the January 6, 2015 Opinion & Order. Defendants are ordered to tender a copy of the redacted ROI to Plaintiff immediately. Ordered by Judge Marco A. Hernandez. (mr) (Entered: 01/20/2015)