

FILED 14 JUN '13 14:33 USDC-ORP

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

Jeffrey Nathan Lewis

(Enter full name of plaintiff(s))

Plaintiff(s),

v.

Federal Aviation Administration

FAA Administrator Michael Huerta

(Enter full name of ALL defendant(s))

Defendant(s).

3'13 - CV - 992 HZ
Civil Case No. _____
(to be assigned by Clerk of the Court)

COMPLAINT

Jury Trial Demanded
 Yes No

I. PARTIES

List your name, address, and telephone number below, and the same information for each defendant. Make sure that the defendant(s) listed below are identical to those contained in the caption of the complaint. Attach additional sheets of paper if necessary.

Plaintiff

Name: Jeffrey N. Lewis
Street Address: 28242 S. Salo Road
City, State & Zip Code: Mulino, OR 97042
Telephone No. (971) 295-7669

#52718

Defendant No. 1 Name: Michael Huerta, FAA Administrator
Street Address: 800 Independence Ave., SW
City, State & Zip Code: Washington, DC 20591
Telephone No. (202) 267-3111

Defendant No. 2 Name: _____
Street Address: _____
City, State & Zip Code: _____
Telephone No. _____

Defendant No. 3 Name: _____
Street Address: _____
City, State & Zip Code: _____
Telephone No. _____

Defendant No. 4 Name: _____
Street Address: _____
City, State & Zip Code: _____
Telephone No. _____

II. JURISDICTION

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. A case involving the United States Constitution or federal laws or treaties is a federal question case. A case in which a citizen of one state sues a citizen of another state and the amount in damages claimed is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction (*check all that apply*)

- Federal Question Diversity of Citizenship

- B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory, or treaty right is at issue?

Freedom of Information Act (5 U.S. Code Section 552)

- C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state of citizenship _____

Defendant(s) state(s) of citizenship _____

III. STATEMENT OF CLAIMS

Claim I

State here as briefly as possible the facts of your case. Describe how each defendant was involved, when the conduct occurred, and any injuries you have suffered as a result. It is not necessary to give any legal arguments or cite any cases or statutes.

FAA officials are failing to comply with FOIA (5 U.S. Code 552) by excessively and improperly applying FOIA exemptions. Plaintiff has filed numerous FOIA requests and has endured lengthy delays in Defendant FAA's responses, which declare Plaintiff's right to file a civil action at a District Court. For this claim, Plaintiff asserts that Defendant FAA is mis-applying FOIA Exemptions number 2, number 6 and number 7. Defendant FAA has repeatedly cited these three FOIA Exemptions in their FOIA Appeals, denying Plaintiff records and/or data that would otherwise be disclosable under FOIA.

As to injury, FAA's obstruction of the FOIA process has impeded Plaintiff's collection of numerous records needed to aid in his defense against an improper dismissal by Defendant FAA. Plaintiff also seeks to disseminate these records to the Public, via the website aiREFORM.com.

This Claim charges Defendant FAA with non-compliance in their Appeal Responses for the following FOIA Requests: FOIA #2010-8248; FOIA #2011-1765; FOIA #2011-2164; FOIA #11-2330; FOIA #2011-2662; FOIA #2011-4047; FOIA #2011-6573; FOIA #2011-8134; and, FOIA #2013-4161.

Claim II

State here as briefly as possible the facts of your case. Describe how each defendant was involved, when the conduct occurred, and any injuries you have suffered as a result. It is not necessary to give any legal arguments or cite any cases or statutes.

FAA officials are failing to make determinations on FOIA Appeals within the 20-day time limit established at 5 U.S.Code 552(a)(6)(A)(ii). The oldest of the delayed FOIA Appeal Responses listed below was due in January 2012, and thus is nearly 18-months overdue. In accordance with 5 U.S.Code 552, Plaintiff shall be deemed to have exhausted his administrative remedies.

As to injury, Plaintiff has a personal need for these records to aid in his defense against an improper dismissal by Defendant FAA; FAA's obstruction of the FOIA process has impeded collection of those records. Plaintiff also seeks these records for a website, aiREFORM.com, which aims to inform citizens with records, information and analysis showing the performance and/or non-performance of FAA.

This Claim charges Defendant FAA FOIA non-compliance in their grossly delayed Appeal Responses for the following FOIA Requests: FOIA #2011-7535; FOIA #2012-6826; and, FOIA #2012-7031.

Claim III

State here as briefly as possible the facts of your case. Describe how each defendant was involved, when the conduct occurred, and any injuries you have suffered as a result. It is not necessary to give any legal arguments or cite any cases or statutes.

FAA officials are failing to make determinations on a FOIA Request within the 20-day time limit established at 5 U.S.Code 552(a)(6)(A)(i). Plaintiff filed FOIA #2012-2082 on 12/15/11, and received a letter on 1/5/12 advising it had been assigned to Dean Torgerson, FOIA Coordinator at the FAA Headquarters Air Traffic Office (ATO). Seventeen months later, Defendant FAA has still provided no response. Plaintiff also filed FOIA #2012-6967 on 7/26/12 and Defendant FAA has far exceeded the time limit. In accordance with 5 U.S.Code 552, Plaintiff shall be deemed to have exhausted his administrative remedies.

As to injury, Defendant FAA's obstruction of the FOIA process has impeded collection of these records, which Plaintiff seeks for posting at a website, aiREFORM.com. The purpose of this website is to inform citizens with records, information and analysis showing the performance and/or non-performance of FAA. In this case, the records are expected to serve as evidence of a safety failure and operational error by an air traffic controller, which Defendant FAA has continued to conceal from public disclosure. Ultimately, the dissemination of these records will aid Defendant FAA in reforming so as to serve the Public with a higher level of safety and efficiency.

(If you have additional claims, describe them on another piece of paper, using the same outline.)

IV. RELIEF

State briefly exactly what you want the court to do for you and the amount, if any, of monetary compensation you are seeking. Make no legal arguments. Cite no cases or statutes.

Plaintiff prays for judgment to include: _____

1) Declaratory relief declaring that FAA's failure to disclose the requested records is unlawful; _____


~~2) Injunctive Relief ordering FAA to immediately and expeditiously process Plaintiff's FOIA requests, making available to Plaintiff the requested records;~~ _____

3) For Plaintiff's actual damages and any reasonable litigation costs incurred in this action pursuant to 5 U.S.C. section (a)(4)(E); _____

4) and, for other such relief as the Court may deem just and proper. _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14th day of June, 2013.

 _____

(Signature of Plaintiff(s))