

Answers to Complaints

3:11-cv-01458-AC Lewis v.
Federal Aviation Administration et
al

RCD 5-22-12

CONSENT

U.S. District Court

District of Oregon

Notice of Electronic Filing

The following transaction was entered by Danielson, Kevin on 5/18/2012 at 3:00 PM PDT and filed on 5/18/2012

Case Name: Lewis v. Federal Aviation Administration et al

Case Number: 3:11-cv-01458-AC

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Docket Text:

Answer to Complaint Defendant FFA's Answer to Amended Complaint. Filed by Federal Aviation Administration. (Danielson, Kevin)

3:11-cv-01458-AC Notice has been electronically mailed to:

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3:11-cv-01458-AC Notice will not be electronically mailed to:

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CR-25
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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

JEFFREY NATHAN LEWIS,

Civil No. 3:11-CV-1458-AC

Plaintiff,

**DEFENDANT FFA'S ANSWER TO
AMENDED COMPLAINT**

v.

**FEDERAL AVIATION
ADMINISTRATION, VICTORIA B.
WASSMER, TIMOTHY F. KUBIK,
and DOUGLAS C. TAYLOR,**

Defendants.

Defendant Federal Aviation Agency (“FAA”), by S. Amanda Marshall, United States Attorney for the District of Oregon, through Assistant U.S. Attorney Kevin Danielson, submits this answer to Paragraphs 61-72 of Plaintiff’s amended complaint (CR 19).

Defendants Victoria B. Wassmer, Timothy F. Kubik, and Douglas C. Taylor, employees of the FAA, have filed a motion to dismiss them from the action under Fed. R. Civ. P. 12(b)(1). CR 5. This matter is pending with the Court.

ANSWER TO AMENDED COMPLAINT

1. In Paragraph, 61, the FAA admits it agreed that Mr. Lewis could file a short amendment to the complaint limited to FOIA Control Number 2011-9148.
2. In Paragraph 62, the FAA admits the administrative appeal in FOIA Control Number 2011-9148 was not completed when Mr. Lewis filed the complaint.
3. In Paragraph 63, in the first sentence, the FAA admits the original FOIA request is dated September 1, 2011. In the second sentence, the FAA admits that Mr. Lewis was seeking an email dated 4/5/2008. In the third sentence, the FAA admits the allegations but is without knowledge or information regarding when Mr. Lewis received the FOIA response. In the fourth sentence, the FAA admits Mr. Lewis filed an administrative appeal but is without knowledge or information regarding when Mr. Lewis received the appeal determination.
4. In Paragraph 64, in the first sentence, the FAA denies the allegations. In the

second sentence, the FAA admits that Victoria Wassmer signed the appeal determination dated January 26, 2012. In the third sentence, the FAA admits that additional information was disclosed on appeal. In the fourth sentence, the FAA denies the allegations.

5. In Paragraph 65, the FAA denies the allegations.

6. In Paragraph 66, the FAA admits that it properly withheld certain information under Exemption 6.

7. In Paragraph 67, the FAA denies the allegations but admits that information was properly withheld under Exemption 6.

8. In Paragraph 68, the FAA admits it agreed that Mr. Lewis could file a short amendment to the complaint limited to FOIA Control Number 2011-9148.

9. In Paragraph 69, the FAA denies the allegations.

10. Paragraph 70 is a conclusion of law and requires no answer.

11. In Paragraph 71, the FAA is without information or knowledge regarding the allegations.

12. In Paragraph 72, the FAA denies that Mr. Lewis has exhausted his administrative remedies on all claims.

13. All allegations in the preceding paragraphs that are not specifically admitted are denied.

II. AFFIRMATIVE DEFENSES

1. Some or all documents, in full or in part, are exempt from release under FOIA.

2. Plaintiff has failed to exhaust his administrative remedies.
3. Plaintiff has not paid, or agreed to pay, the required fee assessed by the FAA.
4. This Court lacks subject matter jurisdiction.

III. CONCLUSION

Plaintiff is not entitled to relief and Defendant FAA asks this Court to grant judgment in its favor and award it all relief to which it is entitled.

Respectfully submitted this 18th day of May 2012.

S. AMANDA MARSHALL
United States Attorney
District of Oregon

/s/ Kevin C. Danielson
KEVIN DANIELSON
Assistant United States Attorney