

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

JUDICIAL WATCH, INC.,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 23-0113 (CKK)
v.	)	
	)	
U.S. DEPARTMENT OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Defendant.	)	
_____	)	

**AMENDED COMPLAINT**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Health and Human Services to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of Health and Human Services is an agency of the U.S. Government and is headquartered at 200 Independence Avenue SW, Washington, DC 20201. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. On March 3, 2022, Plaintiff submitted a FOIA request to the Defendant, seeking access to the following:

All records, including, but not limited to, electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to any efforts of Vice Admiral Vivek H. Murthy, MD, MBA, U.S. Surgeon General, to contact any employee of Facebook, Twitter, TikTok, Instagram, Snapchat, Reddit, YouTube, LinkedIn, Tumblr, and Pinterest concerning COVID-19 vaccines.

The date range of the request was identified as January 20, 2021 to the present.

6. By email dated March 7, 2022, Defendant asked for clarification of the FOIA request and assigned tracking number 2022-00522-FOIA-OS.

7. By email dated March 8, 2022, Plaintiff clarified its request by providing Defendant with the following email domain names to be searched: @facebook.com; @twitter.com; @instagram.com; @tiktok.com; @tumblr.com; @reddit.com; @youtube.com; @snapchat.com; @linkedin.com; @pinterest.com.

8. By email dated March 10, 2022, Defendant informed Plaintiff that its request was “In Process.”

9. As of the date of this Complaint, Defendant has failed to (i) produce the requested records or demonstrate that the requested records are lawfully exempt from production; (ii) notify Plaintiff of the scope of any responsive records the Defendant intends to produce or

withhold and the reasons for any withholdings; or (iii) inform Plaintiff that it may appeal any adequately specific, adverse determination.

**COUNT I**  
**(Violation of FOIA, 5 U.S.C. § 552)**

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is in violation of FOIA.

12. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with it.

13. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request by April 5, 2022, at the latest. Because Defendant failed to make a final determination on Plaintiff's FOIA request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: April 12, 2023

Respectfully submitted,

/s/ Jason B. Aldrich

Jason B. Aldrich

D.C. Bar No. 495488

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