

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

Civil Action No. 20-cv-00038-SKC

NOVO LEGAL GROUP, LLC,

Plaintiff,

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,

Defendant.

ANSWER

Defendant, U.S. Customs and Immigration Enforcement (“ICE”) by and through counsel, hereby responds to Plaintiff’s Complaint as follows:

RESPONSES

Defendant responds to the separately numbered paragraphs and prayer for relief contained in the Complaint below. To the extent that any allegation is not admitted herein, it is denied. Moreover, to the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents; however, Defendant’s references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiff; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

I. INTRODUCTION

1. The allegations contained in Paragraph 1 consist of Plaintiff’s characterization of this action, to which no response is required. To the extent that a response is required, Defendant

admits that Plaintiff brings a claim under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). Defendant denies any remaining allegations in Paragraph 1.

2. The allegations in Paragraph 2 do not relate directly to the FOIA request that forms the basis of the Complaint. The phrase “in modern memory” is vague and undefined and Defendant therefore cannot admit or deny the allegations in the first sentence of Paragraph 2. While figures similar to those recounted in the second sentence of Paragraph 2 have been reported in the media, Defendant lacks information sufficient to form a belief about the truth of the specific statistics alleged in Paragraph 2.

3. The allegations in Paragraph 3 do not relate directly to the FOIA request that forms the basis of the Complaint. While figures similar to those recounted in Paragraph 3 have been reported in the media, Defendant lacks information sufficient to form a belief about the truth of the specific statistics alleged in Paragraph 3.

4. The term “putatively civil immigration system” in Paragraph 4 is vague, overbroad, and undefined, and Defendant therefore cannot admit or deny the allegations in Paragraph 4. To the extent a response is required, Defendant denies the allegations of Paragraph 4.

5. Admitted.

6. Admitted.

7. Paragraph 7 consists predominantly of a quotation from a report of the Office of Inspector General of the Department of Homeland Security. Defendant admits that Paragraph 7 contains an accurate quotation of that report, and respectfully refers the Court to the report for a

complete and accurate statement of its content. Defendant denies the remaining allegations of Paragraph 7.

8. Paragraph 8 consists predominantly of a quotation from a report of the Office of Inspector General of the Department of Homeland Security. Defendant admits that Paragraph 8 contains an accurate quotation of that report, and respectfully refers the Court to the report for a complete and accurate statement of its content. Defendant denies the remaining allegations of Paragraph 8.

9. Paragraph 9 consists predominantly of a quotation from a report of the Office of Inspector General of the Department of Homeland Security. Defendant admits that Paragraph 9 contains an accurate quotation of that report, and respectfully refers the Court to the report for a complete and accurate statement of its content. Defendant denies the remaining allegations of Paragraph 9.

10. Defendant admits that the websites for the organizations listed in Paragraph 10 refer to and host a document that purports to be a complaint filed with a number of governmental agencies regarding the subject-matter discussed in Paragraph 10. Defendant denies any remaining allegations in Paragraph 10.

11. The allegations contained in Paragraph 11 do not relate directly to the FOIA request that forms the basis of the Complaint, and as they are not tied to any particular incident, they are thus too vague and general for Defendant to admit or deny. To the extent a response is required, Defendant denies the allegations of Paragraph 11.

12. The allegations contained in Paragraph 12 do not relate directly to the FOIA request that forms the basis of the Complaint, and while figures similar to those recounted in

Paragraph 12 have been reported in the media, Defendant lacks information sufficient to form a belief about the truth of the specific statistics alleged in Paragraph 12.

13. Defendant admits that Plaintiff submitted a FOIA Request dated May 7, 2018, and that Paragraph 13 generally summarizes the records requested. Defendant respectfully refers the Court to Plaintiff's FOIA Request for a complete and accurate statement of its contents. Defendant denies any remaining allegations in Paragraph 13.

II. JURISDICTION AND VENUE

14. Paragraph 14 sets forth legal conclusions to which no response is required. To the extent a response is required, Defendant admits that this Court has subject matter jurisdiction under FOIA, as limited by the relief available under FOIA, and that venue in this Court is proper.

III. PARTIES

15. Defendant lacks information sufficient to form a belief about the truth of the allegations in Paragraph 15.

16. Admitted.

IV. STATEMENT OF FACTS

17. Defendant admits that Plaintiff submitted a FOIA Request dated May 7, 2018. Defendant admits that Paragraph 17 contains an accurate quotation from that FOIA Request, and respectfully refers the Court to Plaintiff's FOIA Request for a complete and accurate statement of its contents. Defendant denies any remaining allegations in Paragraph 17.

18. Defendant admits that ICE sent correspondence to Plaintiff on or about May 9, 2018, and that Paragraph 18 contains an accurate quotation from that correspondence. Defendant respectfully refers the Court to the correspondence for a full and accurate statement of

its contents and denies any allegations inconsistent therewith. Defendant denies the remaining allegations in Paragraph 18.

19. Admitted.

20. Admitted.

21. Defendant admits that ICE sent correspondence to Plaintiff on or about August 23, 2018, and that Paragraph 21 generally summarizes the content of that correspondence. Defendant denies any remaining allegation in Paragraph 21.

22. Defendant admits that ICE sent correspondence to Plaintiff on or about September 20, 2018, and that Paragraph 22 contains an accurate quotation from that correspondence. Defendant respectfully refers the Court to the correspondence for a full and accurate statement of its contents and denies any allegations inconsistent therewith. Defendant denies any remaining allegations in Paragraph 22.

23. Admitted.

24. Admitted.

25. Defendant has been unable to locate a record of this correspondence, and therefore lacks information sufficient to form a belief about the truth of the allegations in Paragraph 25.

26. Admitted.

27. Paragraph 27 sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 27.

V. CLAIMS FOR RELIEF

28. Paragraph 28 sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 28.

29. Paragraph 29 sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 29.

30. Paragraph 30 sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 30.

VI. PRAYER FOR RELIEF

Defendant denies that Plaintiff is entitled to any of the requested relief.

DEFENSES

Defendant alleges the following additional defenses to the Complaint. In asserting these defenses, Defendant does not assume the burden to establish any fact or proposition where that burden is properly imposed upon Plaintiff.

1. Plaintiff's complaint fails to state a claim upon which relief may be granted.
2. Defendant conducted a reasonable search for documents responsive to Plaintiff's FOIA Request and is in the process of reviewing agency records and will produce non-exempt agency records that are responsive to Plaintiff's FOIA Request.
3. Plaintiff is not entitled to compel the production of records protected from disclosure by one or more of the exemptions or exclusions to FOIA.
4. This Court lacks jurisdiction over any of Plaintiff's requests for relief that exceed the relief authorized by FOIA.

5. Plaintiff's FOIA Request is not enforceable under FOIA to the extent a reasonable search cannot be undertaken to identify and locate responsive records.

6. Plaintiff is not entitled to injunctive relief, declaratory relief, mandamus, attorney's fees, costs of suit, or any damages whatsoever.

WHEREFORE, having fully answered the Complaint, Defendant requests that Plaintiff take nothing by this action; that the Complaint be dismissed; and that judgment be entered for the Defendants, together with costs and such other relief as the Court deems appropriate in this case.

DATED: March 10, 2020.

JASON R. DUNN
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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following recipients:

Olivia Kohrs
Danielle C. Jefferis
Novo Legal Group, LLC
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s/Annette Dolce

United States Attorney's Office