

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

AMERICAN IMMIGRATION)	
COUNCIL)	
)	
Plaintiff,)	
v.)	Civil Action No. 1:12-cv-00932 (EGS)
)	
UNITED STATES DEPARTMENT)	
OF HOMELAND SECURITY, <i>et al.</i>)	
)	
Defendants.)	
_____)	

DEFENDANTS’ ANSWER TO COMPLAINT

Comes defendants, the U.S. Department of Homeland Security (“DHS”) and the U.S. Customs and Border Protection (“CBP”), a component of DHS, by their undersigned counsel of record, and, for their answer to plaintiffs’ Complaint for Declaratory and Injunctive Relief, state as follows:

RESPONSES TO NUMBERED PARAGRAPHS IN COMPLAINT

1. This allegation consists of plaintiff’s characterization of the complaint, as to which no answer is required. To the extent that an answer to this allegation is deemed required, defendants deny the allegations in this paragraph except to admit that plaintiffs purport to seek the requested relief.

2. Defendants admit that CBP’s top priority is to secure the borders of the United States, that CBP makes determinations whether applicants for admission may be allowed to enter the United States, and that federal immigration law grants CBP law enforcement personnel certain authorities and powers to enforce federal immigration law; otherwise, deny the allegations in the first two sentences of this paragraph. The remaining

allegations of this paragraph state the legal opinions and conclusions of plaintiffs, as to which no answer is required. To the extent that an answer to these allegations is deemed required, defendants admit that plaintiff has described a provision of the Immigration and Nationality Act (“INA”), and corresponding regulations and legal forms, but deny that these allegations represent a complete and accurate statement of the law.

3. Defendant lacks knowledge sufficient to form a belief or opinion as to the truth of the allegations found in this paragraph which are based on reports of third parties. To the extent that a response is required, this paragraph is denied.
4. Defendants admit that DHS reports that CBP processed more than 400,000 voluntary returns in 2010; otherwise, deny the remaining allegations of the first sentence. Defendants deny the remaining allegations of the paragraph except to admit that plaintiff submitted a Freedom of Information Act (“FOIA”) request to CBP seeking records regarding voluntary returns.

JURISDICTION

5. This paragraph states the legal opinions and conclusions of plaintiffs, including citations to legal authority and a statement as to the purported jurisdiction of this Court, as to which no answer is required.
6. This paragraph states the legal opinions and conclusions of plaintiffs, including citations to legal authority and a statement as to the propriety of venue in this district, as to which no answer is required.
7. Defendants admit that Plaintiff AIC submitted an appeal to CBP’s FOIA Appeals Office with regard to its FOIA request seeking records regarding voluntary returns; otherwise, deny.

PARTIES

8. Defendant lacks knowledge sufficient to form a belief as to the truth of the allegations contained in this paragraph.
9. Defendants admit the first sentence. Defendants admit that DHS enforces federal immigration federal immigration laws; otherwise, deny the second sentence. Defendants admit that Plaintiff AIC seeks records from within CBP, a component of DHS; otherwise, deny the second sentence.
10. Defendants admit the first sentence. Defendants deny the second sentence except admit that CBP enforces federal immigration laws and acts pursuant to its authority under the INA and corresponding regulations. Defendants admit that Plaintiff AIC seeks records from within CBP; otherwise, deny the third sentence.

STATEMENT OF FACTS

11. This paragraph refers to and purports to describe the contents of a letter attached to the Complaint; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document.
12. This paragraph refers to and purports to describe the contents of a letter attached to the Complaint; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document.
13. This paragraph refers to and purports to describe the contents of a letter attached to the Complaint; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document.

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23. This paragraph refers to and purports to describe the contents of a letter attached to the Complaint; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document.
24. This paragraph refers to and purports to describe the contents of a letter attached to the Complaint; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document.
25. Defendants admit an employee from the CBP FOIA Appeals Office contacted AIC to inform it that CBP was still processing potential responsive records to plaintiff's FOIA request and admit that the processing of plaintiff's FOIA request is ongoing; otherwise, deny.
26. Deny.
27. This paragraph refers to and purports to describe the contents of a letter attached to the Complaint; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document.
28. The allegations of this paragraph state the legal opinions and conclusions of plaintiffs, as to which no answer is required. To the extent that an answer to these allegations is

deemed required, defendants admit that plaintiff has described a provision of the FOIA, but deny that these allegations represent a complete and accurate statement of the law.

29. Deny.

30. The first two sentences of this paragraph refer and purport to describe the contents of exhibits attached to the Complaint; defendants aver that the referenced documents speak for themselves as to their contents and deny plaintiffs' characterization of the documents. Defendants deny the third sentence except to admit that CBP has processed more than two responsive records totaling more than four pages in response to AIC's FOIA request.

31. This paragraph refers to and purports to describe the contents of a document available on the internet; defendants aver that the referenced document speaks for itself as to its contents and deny plaintiffs' characterization of the document. Defendants aver that CBP has processed more than two responsive records totaling more than four pages in response to AIC's FOIA request.

32. This paragraph refers to and purports to describe the contents of documents available on the Internet and attached to the Complaint; defendants aver that the referenced documents speak for themselves as to their contents and deny plaintiffs' characterization of the documents. Defendants aver that CBP has processed more than two responsive records totaling more than four pages in response to AIC's FOIA request.

33. This paragraph refers to and purports to describe the contents of documents available on the Internet; defendants aver that the referenced documents speak for themselves as to their contents and deny plaintiffs' characterization of the documents. Defendants otherwise deny the allegations of this paragraph except to aver that CBP has processed

more than two responsive records totaling more than four pages in response to AIC's FOIA request.

34. Deny.

35. Defendants repeat and reiterate their above answers to paragraphs 1-34.

36. The allegations of this paragraph state the legal opinions and conclusions of plaintiffs, as to which no answer is required. To the extent that an answer to these allegations is deemed required, defendants admit that plaintiff has described a provision of the FOIA, but deny that these allegations represent a complete and accurate statement of the law.

37. Deny.

38. Deny.

39. Deny.

40. Deny.

The remainder of the allegations in the Complaint constitutes a prayer for relief, to which no answer is required. To the extent an answer is deemed required, the allegations are denied.

All allegations not specifically admitted or denied in the foregoing numbered responses are hereby denied.

WHEREFORE, based on all the foregoing, the defendants, DHS and CBP, request judgment dismissing the Complaint in its entirety and granting such other and further relief as the Court deems just and equitable.

Dated: October 26, 2012

Respectfully submitted,

STUART F. DELERY

Acting Assistant Attorney General

ELIZABETH J. SHAPIRO
Deputy Branch Director

/s/ Adam D. Kirschner

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