

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

_____	)	
LEGACY FOUNDATION,	)	
	)	
Plaintiff,	)	Civ. No. 19-1389 (CJN)
	)	
v.	)	
	)	
FEDERAL ELECTION COMMISSION,	)	ANSWER
	)	
Defendant.	)	
_____	)	

**DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER**

Defendant Federal Election Commission (“FEC” or “Commission”) submits this Answer to the Complaint filed by plaintiff The Legacy Foundation. All allegations in plaintiff’s complaint, including the relief sought, are DENIED except where specifically admitted herein. Defendant admits, denies, or otherwise answers the numbered paragraphs in the Complaint as follows:

**“INTRODUCTION”<sup>1</sup>**

1. This paragraph summarizes plaintiff’s Complaint, the allegations of which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that this case is an action under the Freedom of Information Act (“FOIA”) to compel the production of certain agency records. DENY that plaintiff The Legacy Foundation is the requester of the records at issue in this case, because that request was made by Nathaniel C. Serslev. DENY that

<sup>1</sup> For ease of reference, the Commission refers to plaintiff’s headings and titles, but to the extent those headings and titles could be construed to contain factual allegations, those allegations are DENIED.

the Commission has violated FOIA and DENY that plaintiff is entitled to any relief in this litigation.

2. ADMIT that the Commission is the independent agency of the United States Government charged with the administration and civil enforcement of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-30146. *See* 52 U.S.C. § 30106(b). To the extent that the second sentence contains plaintiff's characterizations and conclusions of law regarding FOIA and the matters complained of, no response is necessary. To the extent a response may be required, the Commission ADMITS that it has an obligation to comply with federal law, which is described imprecisely by plaintiff here.

3. This paragraph contains plaintiff's characterization of the FOIA request at issue in this litigation and the allegations in plaintiff's complaint, which speak for themselves, and so no response is required. To the extent a response may be necessary, the Commission DENIES the allegations, including the allegation that The Legacy Foundation made the request at issue and the allegation that the request extends to "the present," because the request at issue extended only through the date it was made, February 26, 2019.

4. This paragraph contains plaintiff's characterization of and conclusions of law regarding plaintiff's complaint, which speaks for itself, and so no response is required. To the extent a response may be required, the Commission DENIES that it has violated FOIA in connection with the FOIA request at issue. The Commission further DENIES that plaintiff is entitled to the declaratory, injunctive and other relief sought in this case.

#### **"JURISDICTION AND VENUE"**

5. DENY that there is jurisdiction for the claims of plaintiff The Legacy Foundation, because it did not make the FOIA request at issue here.

6. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

7. ADMIT, except that as to the second sentence, ADMIT that the Commission has civil (not criminal) enforcement authority under the Federal Election Campaign Act.

**“STATEMENT OF FACTS”**

8. ADMIT, except that the Commission has civil (not criminal) enforcement authority over the Federal Election Campaign Act.

9. ADMIT.

10. The Commission is without knowledge or information sufficient to admit or deny the first sentence. The second sentence characterizes the FOIA request at issue in this litigation, which speaks for itself, and so no response is necessary. To the extent a response may be required, the Commission ADMITS the second sentence, except that it DENIES the allegation that The Legacy Foundation made the FOIA request at issue.

11-13. These paragraphs contain plaintiff’s characterization and conclusions of law regarding FOIA and therefore no response is necessary.

14. ADMIT that the Commission received a FOIA request from Nathaniel C. Serslev dated February 26, 2019 (plaintiff’s Appendix A), but DENY that the request was by, from, or in the name of The Legacy Foundation. The remainder of this paragraph describes the FOIA request from Mr. Serslev, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the FOIA request contained the language quoted by plaintiff, but the Commission notes that the last word (“between”) appears in a subsequent paragraph of the request.

15. ADMIT that the Commission received a FOIA request from Mr. Serslev on February 27, 2019 and sent a response to Mr. Serslev by email on that date. That response speaks for itself and so no further response is required.

16-17. ADMIT that the Commission did not send any further correspondence to Mr. Serslev prior to April 15, 2019, when Mr. Serslev sent a follow-up email to the Commission. DENY that the April 15, 2019 email was sent by, from or in the name of The Legacy Foundation. ADMIT that the Commission sent an email to Mr. Serslev on April 16, 2019. The April 15 and 16, 2019 emails (plaintiff's "Appendix B") speak for themselves and so no further response is required.

18. ADMIT.

19. This paragraph contains plaintiff's characterization of the matters it complains of and plaintiff's conclusions of law, as to which no response is necessary. To the extent a response is required, the Commission DENIES that the request was by, from or in the name of The Legacy Foundation. The Commission ADMITS that it has not yet produced materials in response to the request, but DENIES that it has unlawfully withheld responsive materials, DENIES that the requester has an immediate right to those materials, and DENIES that the Commission has otherwise violated FOIA.

20. Paragraph 20 contains plaintiff's conclusions of law, as to which no response is necessary.

21. DENY.

22. The Commission ADMITS that it has not yet produced materials in response to the request, but DENIES that it has unlawfully withheld responsive materials, DENIES that the

requester has an immediate right to those materials, and DENIES that the Commission has otherwise violated FOIA.

**“COUNT”**  
**“(Failure to Produce Records Pursuant to FOIA)”**

23. The FEC incorporates its responses to paragraphs 1-22.

24. This paragraph contains plaintiff’s characterization of the FOIA request at issue, which speaks for itself, and contains plaintiff’s legal conclusions, to which no response is required. To the extent a response is required, the Commission ADMITS that responsive records are within its custody and control, but otherwise DENIES this paragraph, including the allegation that The Legacy Foundation submitted the FOIA request at issue.

25. The Commission ADMITS that it has not yet produced materials in response to the request, but DENIES that it has unlawfully withheld responsive materials, DENIES that the requester has an immediate right to those materials, and DENIES that the Commission has otherwise violated FOIA.

26. DENY.

27. DENY that plaintiff was a requestor and that the Commission has failed to respond to the FOIA request at issue.

28. DENY.

**“PRAYER FOR RELIEF”**

Defendant denies that plaintiff is entitled to the relief it requests.

**AFFIRMATIVE DEFENSES**

**First Defense**

Plaintiff The Legacy Foundation lacks standing to bring this case because the FOIA

request at issue was made by Nathaniel C. Serslev, and was not made by or in the name of plaintiff.

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Respectfully submitted,

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