

FILED

APR - 6 2009

Clerk, U.S. District and
Bankruptcy Courts

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

CITIZENS FOR RESPONSIBILITY AND)
ETHICS IN WASHINGTON)
1400 Eye Street, N.W., Suite 450)
Washington, D.C. 20005)

Plaintiff,)

v.)

BOARD OF GOVERNORS OF THE)
FEDERAL RESERVE SYSTEM)
20th Street and Constitution Avenue, N.W.)
Washington, D.C. 20551)

Defendant.)

Case: 1:09-cv-00633
Assigned To : Roberts, Richard W.
Assign. Date : 4/6/2009
Description: FOIA/Privacy Act

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, challenging the failure of the Board of Governors of the Federal Reserve System ("the Board") to respond to the expedited request of plaintiff for disclosure of records concerning those entities to which the Board has provided loans and/or financial assistance under the Federal Reserve Act or any other authority of the Board.

2. This case seeks declaratory relief that the Board is in violation of the FOIA, 5 U.S.C. § 552(a)(6)(E)(I), for failing to respond to plaintiff's expedited request for records and injunctive relief ordering defendant Board to process immediately the requested records in their entirety.

JURISDICTION AND VENUE

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the Board pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(I). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district

under 5 U.S.C. § 552(a)(4)(B).

PARTIES

4. Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) is a nonprofit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW seeks to empower citizens to have an influential voice in government decisions and in the governmental decision-making process through the dissemination of information about public officials, federal agencies and entities, and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under the FOIA.

5. CREW has invested considerable organizational resources in pushing the U.S. government to take issues of ethics and responsibility seriously. CREW monitors closely the laws and rules applicable to government agencies and government officials.

6. CREW is harmed by the Board’s failure to process CREW’s FOIA request on an expedited basis, because that failure hampers CREW’s ability to satisfy the compelling public need for full, accurate, and current information on how the Board has distributed more than \$2 trillion to private financial institutions as part of its expanded lending programs. Absent this critical information, CREW cannot advance its mission of educating the public to ensure the public continues to have a vital voice in government and, in particular, in how taxpayer funds are allotted in this time of great financial crisis.

7. Defendant Board is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 702. The Board is the federal agency with possession and control of the requested records and is responsible for fulfilling plaintiff's FOIA request.

STATUTORY FRAMEWORK

The Freedom of Information Act

8. The FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

9. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination whether or not to fulfill the request and of the requester's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(I).

10. In "unusual circumstances," an agency may delay its response to a FOIA request or appeal, but must provide notice and "the date on which a determination is expected to be dispatched." 5 U.S.C. § 552(a)(6)(B).

11. The FOIA also requires agencies to promulgate regulations providing for expedited processing of FOIA requests where the requester has demonstrated a "compelling need" as well as "other cases determined by the agency." 5 U.S.C. § 552(a)(6)(E)(I). The FOIA defines "compelling need" as including requests "made by a person primarily engaged in disseminating information" where there is an "urgency to inform the public concerning actual or alleged Federal Government activity." *Id.* at § 552(a)(6)(E)(v)(II).

12. Agencies are required to make a determination on a request for expedition within 10 calendar days "after the date of the request," 5 U.S.C. § 552(a)(6)(E)(ii)(I), and to give

“expeditious consideration” to administrative appeals of such determinations. Id. at § 552(a)(6)(E)(ii)(II).

13. Agency decisions to deny or affirm denial of a request for expedition are subject to judicial review “based on the record before the agency at the time of the determination.” 5 U.S.C. § 552(a)(6)(E)(iii).

14. A requester is not required to exhaust administrative remedies prior to seeking judicial review of an agency’s denial of a request for expedited processing. See, e.g., Am. Civil Liberties Union v. Dep’t of Justice, 321 F.Supp.2d 24, 28-29 (D.D.C. 2004).

15. The Board has promulgated regulations providing for expedited processing of FOIA requests where the requester is able to demonstrate a “compelling need” or the Board itself has determined to expedite the request. 12 C.F.R. § 261.13(c). The regulations further define “compelling need” as including situations where there is an “urgency to inform the public concerning actual or alleged Board activity.” Id. at § 261.13(c)(1)(ii). All requesters seeking expedition must certify that the basis for their request is true and correct to the best of their knowledge and belief. Id. at § 261.13(c)(1).

16. Board regulations require the agency to grant or deny a request for expedited processing “within 10 calendar days of the date of the request.” Id. at § 261.13(c)(2). If expedition is granted, the request will be processed “as soon as practicable.” 12 C.F.R. § 261.13(c).

17. This Court has jurisdiction, upon receipt of a complaint, “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.” 5 U.S.C. §552(a)(4)(B).

FACTS UNDERLYING PLAINTIFF'S PRAYER FOR RELIEF

18. During the past 18 months or so the Board has taken a number of steps in response to the growing economic crisis. These steps include the creation of a number of new lending facilities: the Primary Dealer Credit Facility, the Term Securities Lending Facility, and the Term Auction Facility. The Board also has made changes to the Discount Window lending

19. These actions were designed to enhance the stability of the financial system, increase the willingness of financial institutions to extend credit, and ease conditions in inter-bank lending markets.

20. According to the Board, providing short-term credit to financial institutions through these measures exposes the Board to minimal credit risk, particularly because the loans the Board makes are short-term, over-collateralized, and made with recourse to the borrowing entity. Private institutions seeking to use the Board's lending facilities must post collateral to the Board in exchange for the loan of government funds.

21. By letter dated February 4, 2009, Sen. Bernard Sanders (I-VT) requested that Board Chairman Ben S. Bernanke provide him with information about the trillions of dollars of loans and other assistance the Board has provided financial institutions and other entities. The requested information included the identities of the businesses, individuals, or entities to which the Board has provided assistance over the last two years; the type of assistance provided; the value or amount of that assistance; the terms of any expected repayment; and the specific rationale for providing the assistance. As Sen. Sanders noted, "Given the size of these commitments it is incomprehensible that the American people have not received specific details about them."

22. To date the Board has not provided Sen. Sanders with the information he requested. During subsequent testimony before the Senate Budget Committee, Chairman Bernanke refused to identify the financial institutions that have received taxpayer-backed loans and other financial assistance from the Board, claiming that revealing such information would be “counterproductive.”

23. By contrast, the Treasury Department has identified the banks and other financial institutions that have received bailout funds from Treasury.

Plaintiff's FOIA Request and Request for Expedited Processing

24. On March 3, 2009, plaintiff sent a FOIA request by facsimile to defendant Board seeking records, regardless of format and including electronic records and information, identifying each business, individual, or entity to which the Board has provided loans and/or other financial assistance from March 24, 2008 to the present under the third undesignated section 13 of the Federal Reserve Act, 12 U.S.C. § 343, or any other authority of the Board, including the Discount Window and the Term Auction Facility. For each recipient of such financial assistance CREW requested the same information requested in Sen. Sanders' February 4, 2009 letter: (1) the type of financial assistance provided; (2) the value or amount of the financial assistance provided; (3) the date on which the assistance was provided; (4) the specific terms of any expected repayment; and (5) the rationale for providing each instance of financial assistance.

25. CREW sought a waiver of fees associated with processing its request given that the request concerns the operations of the federal government, the disclosures likely will contribute to a better understanding of relevant government procedures in a significant way, and the request

primarily and fundamentally is for non-commercial purposes. Specifically, the requested records are likely to shed light on the processes the Board uses in determining those financial institutions that will receive loans and other forms of financial assistance and whether those obligations are being made prudently and in the best interests of the American taxpayers. The public's interest in the requested documents is particularly pronounced in light of the new expansive powers the Board now has, the ongoing financial crisis, and its effects on the American economy.

26. In addition, CREW sought expedited processing of its FOIA request for the express purpose of disseminating any responsive documents to the public in view of the severity of the current financial crisis, the growing public concern over the government's provision of massive amounts of financial assistance to troubled financial institutions, and the compelling need to inform the public about how and to which institutions the Board has obligated federal funds. As Sen. Sanders has explained, "transparency and accountability are critical to maintaining the credibility of the federal government during these difficult times, and critical to the orderly operation of our democratic system." As required by 12 C.F.R. § 261.13(c)(1), CREW certified that the basis for its request for expedition is true and correct to the best of its counsel's knowledge and belief.

27. To date, the Board has not acted on CREW's request for expedition, despite the passage of more than 10 calendar days.

28. To date, the Board has neither produced a single document to CREW nor withheld or otherwise accounted for any responsive documents. Nor has the Board informed plaintiff of an anticipated date for completing the processing of plaintiff's FOIA request.

29. The only communication CREW has received from the Board is a letter dated March

6, 2009, from Jeanne M. McLaughlin, Manager, Freedom of Information Office, acknowledging receipt of CREW's FOIA request on March 3, 2009.

30. The statutory time limit for the Board to respond to plaintiff's request has run out and plaintiff has constructively exhausted administrative remedies. 5 U.S.C. §552(a)(6)(C); *see also* Judicial Watch v. Rossotti, 326 F.3d 1309, 1310 (D.C. Cir. 2003); Oglesby v. U.S. Dep't of the Army, 920 F.2d 57, 62 (D.C. Cir. 1990).

PLAINTIFF'S CLAIMS FOR RELIEF

CLAIM ONE
(Failure to Expedite)

31. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

32. Plaintiff demonstrated it met the requirements for expediting its FOIA request.

33. To date, plaintiff has not received a substantive response to its request for expedition from defendant Board.

34. Therefore, defendant violated FOIA's mandate to expedite the processing of plaintiff's FOIA request. 5 U.S.C. §552(a)(6)(E)(ii).

35. Plaintiff is entitled to injunctive and declaratory relief with respect to the expedited release and disclosure of the requested records.

CLAIM TWO
(Failure to Produce Records)

36. Plaintiff re-alleges and incorporates by reference all preceding paragraphs.

37. Plaintiff properly asked for records within the custody and control of the Board.

38. The Board wrongfully withheld agency records requested by plaintiff by failing to comply with the statutory time limit for the processing of plaintiff's FOIA request.

39. Plaintiff has exhausted the applicable administrative remedies with respect to defendant Board's wrongful withholding of the requested records.

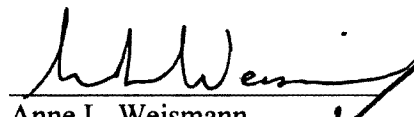
40. Plaintiff is entitled to injunctive and declaratory relief with respect to the expedited release and disclosure of the requested documents

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests that this Court:

- (1) Issue a declaration that plaintiff is entitled to expedited processing of its FOIA request submitted to defendant Board on March 3, 2009;
- (2) Issue a declaration that plaintiff is entitled to a complete waiver of processing fees associated with its FOIA request submitted to defendant Board on March 3, 2009;
- (3) Order defendant Board to process immediately the requested records in their entirety;
- (4) Order defendant Board upon completion of such expedited processing to disclose the requested records and make copies available to plaintiff;
- (5) Provide for expeditious proceedings in this action;
- (6) Retain jurisdiction of this action to ensure the processing of plaintiff's FOIA request is expedited and no agency records are wrongfully withheld;
- (7) Award plaintiff reasonable attorney fees and litigation costs in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (8) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



Anne L. Weismann
(D.C. Bar No. 298190)

Melanie Sloan
(D.C. Bar No. 434584)
Citizens for Responsibility and Ethics
in Washington
1400 Eye Street, N.W., Suite 450
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Phone: (202) 408-5565
Fax: (202) 588-5020

Dated: April 6, 2009

Attorneys for Plaintiff

CIVIL COVER SHEET

JS-44
 (Rev. 2/01 DC)

<p>I (a) PLAINTIFFS</p> <p>Citizens for Responsibility and Ethics in Washington <i>11001</i></p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>Anne L. Weismann Citizens for Responsibility and Ethics in Washington 1400 Eye Street, N.W., Suite 450 Washington, D.C. 20005 202-408-5565</p>	<p>DEFENDANTS</p> <p>Board of Governors of the Federal Reserve System</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: In land government cases...</p> <p>Case: 1:09-cv-00633 Assigned To : Roberts, Richard W. Assign. Date : 4/6/2009 Description: FOIA/Privacy Act</p>
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<p>II BASIS OF JURISDICTION (SELECT ONE BOX ONLY)</p> <p><input type="radio"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="radio"/> 2 U.S. Government Defendant</p> <p><input type="radio"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)</p>	<p>III CITIZENSHIP OF PRINCIPAL PARTIES (SELECT ONE FOR PLAINTIFF AND ONE FOR DEFENDANT) (FOR DIVERSITY CASES ONLY!)</p> <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DFT</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DFT</td> </tr> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT
 (Select one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<p><input type="radio"/> A. Antitrust</p> <p><input type="checkbox"/> 410 Antitrust</p>	<p><input type="radio"/> B. Personal Injury/Malpractice</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Medical Malpractice</p> <p><input type="checkbox"/> 365 Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Product Liability</p>	<p><input type="radio"/> C. Administrative Agency Review</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><u>Social Security:</u></p> <p><input type="checkbox"/> 861 HIA ((1395ff))</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><u>Other Statutes</u></p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)</p>	<p><input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction</p> <p>Any nature of suit from any category may be selected for this category of case assignment.</p> <p>*(If Antitrust, then A governs)*</p>
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<p><input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil</p>			
<p><u>Real Property</u></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent, Lease & Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p> <p><u>Personal Property</u></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><u>Bankruptcy</u></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><u>Prisoner Petitions</u></p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus & Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p> <p><u>Property Rights</u></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><u>Forfeiture/Penalty</u></p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food & Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 RR & Truck</p> <p><input type="checkbox"/> 650 Airline Regs</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p> <p><u>Federal Tax Suits</u></p> <p><input type="checkbox"/> 870 Taxes (US plaintiff or defendant)</p> <p><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609</p>	<p><u>Other Statutes</u></p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 430 Banks & Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations</p> <p><input type="checkbox"/> 810 Selective Service</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)</p>

3

<p><input type="radio"/> G. Habeas Corpus/2255</p> <p><input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence</p>	<p><input type="radio"/> H. Employment Discrimination</p> <p><input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)</p> <p>*(If pro se, select this deck)*</p>	<p><input checked="" type="radio"/> I. FOIA/PRIVACY ACT</p> <p><input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)</p> <p>*(If pro se, select this deck)*</p>	<p><input type="radio"/> J. Student Loan</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)</p>
<p><input type="radio"/> K. Labor/ERISA (non-employment)</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>	<p><input type="radio"/> L. Other Civil Rights (non-employment)</p> <p><input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights</p>	<p><input type="radio"/> M. Contract</p> <p><input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability</p>	<p><input type="radio"/> N. Three-Judge Court</p> <p><input type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)</p>

V. ORIGIN

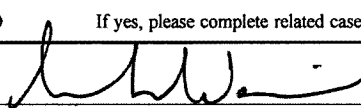
- 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

5 USC sec. 552. The Board failed to respond to plaintiff's expedited FOIA request for agency records

VII. REQUESTED IN COMPLAINT
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ _____
 Select YES only if demanded in complaint
 JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instruction)
 YES NO
 If yes, please complete related case form.

DATE 4/6/09 SIGNATURE OF ATTORNEY OF RECORD 

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff is resident of Washington, D.C.; 88888 if plaintiff is resident of the United States but not of Washington, D.C., and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case.
- VI. CAUSE OF ACTION: Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASES, IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.