

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

AMERICA FIRST LEGAL
FOUNDATION,
611 Pennsylvania Ave., SE #231
Washington, D.C. 20003

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES
200 Independence Ave SW
Washington, DC 20201,

Defendant.

Civil Action No.: 24-439

COMPLAINT

1. Plaintiff America First Legal Foundation (“AFL”) brings this action against the United States Department of Health and Human Services (“HHS”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

3. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

4. The Plaintiff, AFL, is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public.

5. The Defendant HHS is an agency under 5 U.S.C. § 552(f), with its headquarters at 200 Independence Ave SW, Washington, DC 20201.

6. The Defendant has possession, custody, and control of the requested records.

BACKGROUND

7. The Biden Administration has stated that it is committed to a transparent, open, and ethical government.¹

¹ *FACT SHEET: Biden-Harris Administration Prioritizes Effectiveness, Accountability, and Transparency in Bipartisan Infrastructure Law Implementation*, THE WHITE HOUSE (Apr. 29, 2022), <https://tinyurl.com/bdhrccyk>; *Biden White House Pledges Data, Transparency, Respect for Free Press*, REUTERS (Jan. 20, 2021), <https://tinyurl.com/3fzz25mf>; *Mark Joyella, Biden's White House Press Secretary Promises 'Trust and Transparency,'* FORBES (Jan. 20, 2021), <https://tinyurl.com/2p8729wz>.

8. “Timely disclosure of records is also essential to the core purpose of FOIA.” U.S. DEPT JUST., Freedom of Information Act Guidelines (Mar. 15, 2022), <https://tinyurl.com/2yd463dv>.

AFL’S FOIA REQUEST

9. On March 23, 2023, AFL submitted a FOIA request to HHS seeking communications to and from HHS Assistant Secretary for Health, Rachel Levine, from October 19, 2021, to the date that the FOIA is fully processed. *Ex. 1*.

10. This request sought a fee waiver. *Id.*

11. On March 27, 2023, AFL received a letter from HHS acknowledging the request and assigned it tracking number 2023-00613-FOIA-PHS. *Ex. 2*.

12. That email invoked an extension of ten days, for “unusual circumstances” and assigned the request to the complex processing track. *Id.*

13. On June 13, 2023, AFL sent an email to HHS asking for an update on the status of the FOIA. *Ex. 3*.

14. On June 14, 2023, HHS responded to AFL’s email inquiry and stated that it estimated needing an additional six months to process the FOIA. *Id.*

15. On October 25, 2023, AFL again sent an email to HHS asking for an update on the status of the FOIA. *Ex. 4*.

16. HHS did not respond.

17. As of the date of this filing, Defendant HHS has not provided any records under this request.

CLAIM FOR RELIEF

Violation of the FOIA, 5 U.S.C. § 552

18. AFL incorporates paragraphs 1–17 by reference.
19. AFL properly requested records within the possession, custody, and control of the Defendant.
20. The Defendant failed to conduct searches for responsive records.
21. Moreover, because Defendant failed to conduct searches, it has failed to disclose any segregable, non-exempt portions of responsive records. *See* 5 U.S.C. § 552(b).
22. The Defendant has failed to respond to AFL’s requests within the statutory time period. *See* 5 U.S.C. § 552(a)(6).
23. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).
24. The Defendant has violated the FOIA by failing to reasonably search for records responsive to AFL’s FOIA request and release nonexempt records within the prescribed time limit.

PRAYER FOR RELIEF

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by AFL’s requests must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order the Defendant to search immediately, demonstrating search methods reasonably likely to lead to the discovery of responsive records;

- iii. Order the Defendant to produce by a date certain all non-exempt records responsive to AFL's FOIA requests, accompanied by a Vaughn index of any responsive records or portions of responsive records being withheld under a claim of exemption;
- iv. Order the Defendant to grant AFL's requests for fee waivers;
- v. Award AFL attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- vi. Grant AFL such other and further relief as this Court deems proper.

Date: February 14, 2024

Respectfully Submitted

/s/ Jacob Meckler
Ian Prior (D.C. Bar No. 90001650)
Jacob Meckler (D.C. Bar No. 90005210)
Tel: (202) 964-3721
E-mail: ian.prior@aflegal.org
AMERICA FIRST LEGAL FOUNDATION
611 Pennsylvania Avenue SE #231
Washington, D.C. 20003
Counsel for the Plaintiff
America First Legal Foundation



March 23, 2023

Via FOIA Portal

Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

**Freedom of Information Act Request: Correspondence Related to
Transgender Clinics**

Dear FOIA Officer,

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 55,000 unique addresses, our Twitter page has 63,100 followers, the Twitter page of our Founder and President has over 421,400 followers, our Facebook page has 118,000 followers, and we have another approximately 31,700 followers on GETTR.

I. Background

In the past two years, several European countries have significantly pulled back on what is labeled "gender-affirming care" for minors. In reality, "gender-affirming care" involves the practice of prescribing puberty blockers and cross-sex hormones for children under 18, as well as using life-altering surgeries like mastectomies, vaginoplasty, phalloplasty, and metoidioplasty to give children the irreversible appearance of the opposite sex.

For example, in 2021, Swedish hospitals halted the use of puberty blockers in five out of six clinics, with a single clinic only using them for clinical trials.¹ Sweden also now emphasizes psychotherapy for gender dysphoric minors instead of puberty blockers.

Last year, France’s National Academy of Medicine warned medical professionals that the spike in demand for physicians to perform “gender-affirming care” on children is an “epidemic-like phenomenon” with the hallmarks of a social contagion, exacerbated by the “increasing supply of care.”² The Academy stressed that the “risk of over-diagnosis is real” and cited the high number of transgender young adults wishing to detransition. Thus, the Academy concluded that it was crucial to “extend as much as possible the psychological support phase” to guard against providing “irreversible” medical care for “transient dysphoria.”

Finland has made similar findings, and its Council for Choices in Health Care stressed that “[r]esearch data on the treatment of dysphoria due to gender identity conflicts in minors is limited,” that medical intervention should be deemphasized in favor of psychotherapy, and that surgery should not be part of any treatment.³

Likewise, England’s National Health Service has also recognized the need to hit the brakes on the medical transition of children given the concerning and abnormal spike in referrals of children claiming to identify as a different sex. It noted that in “most cases gender incongruence does not persist into adolescence” and that social transitioning should no longer be considered a “neutral act” given the risks associated with it. Thus, “social transition should only be considered where the approach is necessary for the alleviation of, or prevention of, clinically significant distress or significant impairment in social functioning and the young person is able to fully comprehend the implications of affirming a social transition.”⁴

Despite the trend in Europe to change course amidst a clear social contagion, the risks of transitioning children socially and medically, and the growing population of detransitioners, HHS Assistant Secretary Rachel Levine is taking an approach diametrically opposed to the trends in Europe and shocking evidence in the United States.

Just last week, Levine praised the social and medical transition of children at the Pediatric Grand Rounds session at Connecticut Children’s Medical Center in

¹ Mairead Elrodi, *Europe Dialing Back Shocking Policies on Transgender Kids and Medical Intervention*, Daily Wire (June 16, 2022), <https://tinyurl.com/3nmc7ef9>.

² *Press Release, Medicine and Gender Transidentity in Children and Adolescents*, FRENCH NAT’L ACAD. MED. (Feb. 25, 2022), <https://tinyurl.com/2p9fpjyd>.

³ COHERE FINLAND, *Medical Treatment Methods for Dysphoria Associated With Variations in Gender Identity in Minors—Recommendation* (June 16, 2020), <https://tinyurl.com/tzw7pusr>.

⁴ Emily Craig & John Ely, *Children Who Think They’re Trans Are Probably Just Going Through a Phase*, NHS Says, DAILY MAIL (Oct. 24, 2022), <https://tinyurl.com/fmxp3acn>.

Hartford, Connecticut.⁵ Levine stated that such treatments have support “at the highest levels of the federal government,” including President Biden and Vice President Harris, and that those that question their wisdom or safety are “ideologically and politically motivated.”⁶ Levine further claims, despite evidence to the contrary, that hormones and puberty blockers for children are “medically necessary, safe, and effective,” and that the administration will do everything in its power to ensure that these treatments remain easily accessible for children.

Not only is Levine’s position completely contrary to what European nations are saying and doing, but it also ignores recent stories of transgender clinics rushing toward providing irreversible medical treatment for children without proper protocols in place, without patients and parents understanding the risks, and with doctors admitting that “[w]e are building the plane while we are flying it.”⁷

Levine also ignores that this process begins at a young age where thousands of schools are starting children on a school-to-scalpel pipeline by socially transitioning children without parental notice or input.⁸

Given the potentially devastating impact of social and medical transitioning of minors and the irreversible nature of many of the procedures, it is crucial for the public to better understand what Assistant Secretary Levine is doing and saying on these issues, especially when Levine’s public statements are so contrary to children’s health, science, trends, experience of those that have witnessed the process, and common sense.

II. Requested Records

AFL requests the following records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a):

- A. All records of communications, including e-mail and Microsoft Teams messages, to or from Rachel Levine, containing the following terms: Vanderbilt University, Boston Children’s Hospital, Seattle Children’s Hospital, Children’s Hospital of Philadelphia, Tavistock, University of Virginia, Connecticut Children’s and/or Washington University Transgender Center. The timeframe for this item is October 19, 2021, to the date this item is fully processed.

⁵ Joshua Q. Nelson, *Dr. Rachel Levine Says Changing Kids’ Genders Will Soon Be Fully Embraced: ‘Wheels Will Turn On This’*, FOX NEWS (Mar. 16, 2023), <https://tinyurl.com/4b49s3fd>.

⁶ Lee Brown, *Hormone Therapy for Trans Kids Supported at ‘Highest Levels’ of Biden Admin: HHS*, N.Y. POST (Mar. 17, 2023), <https://tinyurl.com/msjkzxh7>.

⁷ Jamie Reed, *I Thought I Was Saving Trans Kids. Now I’m Blowing the Whistle*, FREE PRESS (Feb. 9, 2023), <https://tinyurl.com/z4wvwhv2>.

⁸ PARENTS DEFENDING EDUC., *List of School District Transgender–Gender Nonconforming Student Policies* (Mar. 7, 2023), <https://tinyurl.com/563xzhjy>.

B. All records of communications, including e-mail and Microsoft Teams messages, to or from Rachel Levine, containing the following terms: “gender-affirming care,” “puberty blockers,” “testosterone,” “hormone replacement therapy,” “HRT,” “transgender clinics,” “gender dysphoria,” “transition surgery,” “gender identity,” “detransitioning,” “detransitioned,” “destransitioner,” “medically transitioned,” “suicide prevention care,” “supportive adult(s),” “gag rule,” “medically necessary,” “parental rights,” “anti-LGBTQIA legislation,” “anti-trans legislation,” “anti-trans bills,” “transgender clinic(s),” “mastectomies,” “vaginoplasty,” “phalloplasty,” “access to bathrooms,” “parental consent,” “Title IX,” “access to sports,” “metoidioplasty,” “transgender youth,” “WPATH,” and/or “Protect Children’s Innocence Act.” The timeframe for this item is October 19, 2021, to the date this item is fully processed.

III. Custodians

A. Rachel Levine, Assistant Secretary for Health

IV. Fee Waiver Request

Per 5 U.S.C. § 552(a)(4)(A)(iii), AFL requests a waiver of all search and duplication fees associated with this request. Furthermore, AFL has a demonstrated ability and intention to effectively convey the information broadly to the public. AFL’s status as a representative of the news media has been recognized by other agencies for granting fee waivers by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security. Finally, as a non-profit organization, AFL has no commercial interest, and the request is made entirely to serve the public interest. We are, of course, available to provide additional information in writing or offline in support of this request. If AFL’s request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

V. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines.⁹ If you have any questions about our request or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org.

[Signature page follows]

⁹ U.S. Dep’t Just. (Mar. 15, 2022), <https://tinyurl.com/ypms987t>.

Thank you in advance for your cooperation.

Sincerely,

/s/ Ian D. Prior

Ian D. Prior

America First Legal Foundation



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201Refer to: Request Number **2023-00613-FOIA-PHS****March 27, 2023*****Sent via email:***Reed Rubinstein
foia@aflegal.org

Dear Reed Rubinstein:

This acknowledges receipt of your March 23, 2023, Freedom of Information Act (FOIA) request, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division concerning “[America First Legal Foundation (AFL)] requests...

A. All records of communications, including e-mail and Microsoft Teams messages, to or from Rachel Levine, containing the following terms: Vanderbilt University, Boston Children’s Hospital, Seattle Children’s Hospital, Children’s Hospital of Philadelphia, Tavistock, University of Virginia, Connecticut Children’s and/or Washington University Transgender Center. The timeframe for this item is October 19, 2021, to the date this item is fully processed.

B. All records of communications, including e-mail and Microsoft Teams messages, to or from Rachel Levine, containing the following terms: “gender affirming care,” “puberty blockers,” “testosterone,” “hormone replacement therapy,” “HRT,” “transgender clinics,” “gender dysphoria,” “transition surgery,” “gender identity,” “detransitioning,” “detransitioned,” “destransitioner,” “medically transitioned,” “suicide prevention care,” “supportive adult(s),” “gag rule,” “medically necessary,” “parental rights,” “anti-LGBTQIA legislation,” “anti-trans legislation,” “anti-trans bills,” “transgender clinic(s),” “mastectomies,” “vaginoplasty,” “phalloplasty,” “access to bathrooms,” “parental consent,” “Title IX,” “access to sports,” “metoidioplasty,” “transgender youth,” “WPATH,” and/or “Protect Children’s Innocence Act.” The timeframe for this item is October 19, 2021, to the date this item is fully processed.

III. Custodians A. Rachel Levine, Assistant Secretary for Health (Date Range for Record Search: From 10/19/2021 To 3/23/2023)”. We received your request, on March 23, 2023.

Because you seek records which require a search in another office, “unusual circumstances” apply to your request, automatically extending the time limit to respond to your request for ten additional days. See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2012 & Supp. V. 2017). Further, we estimate needing more than 10 additional days to respond to your request and so, in the next paragraph of this letter we are offering you an opportunity to narrow your request, in case narrowing the request would enable us to respond to the request sooner. The actual time needed to process your request will depend on the complexity of our records search and on the volume and complexity of any material located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Our current workload is approximately 3,000 cases.

Your request is assigned to the complex track. In an effort to speed up our records search, you may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located. You may also wish to await the completion of our records search to discuss either of these options.

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the analyst handling your request, Kathy Hill at kathy.hill@hhs.gov.

If you are not satisfied with any aspect of the processing and handling of this request, you have the right to seek dispute resolution services from:

HHS FOIA/PA Public Liaison
FOI/Privacy Acts Division
Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
U.S. Department of Health and Human Services (HHS)

Telephone: (202) 690-7453
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

and/or:

Office of Government Information Services
National Archives and Records Administration
Telephone: 202- 741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov

If you are not already submitting your requests through our Public Access Link (PAL), we recommend all future requests and appeals be submitted through PAL - <https://requests.publiclink.hhs.gov/>. Submitting requests through PAL automatically logs your requests into our tracking system and provides you with a tracking number. Your PAL account will allow you to track the progress of your request, receive your documents directly through the portal, and securely submit privacy-sensitive or business-sensitive documents.

Sincerely yours,



Arianne Perkins
Director, Initial FOIA Requests
FOI/Privacy Acts Division

RE: 2023-00613-FOIA-PHS

 Sikandar, Nusheen (OS/ASPA) <Nusheen.Sikandar@hhs.gov>
6/14/2023 10:30 AM

To: ian.prior@aflegal.org

Good morning Mr. Prior,

Thank you for your email regarding the above-referenced subject. The HHS FOIA office have received records that may be potentially responsive to your request. Please be advised that like other larger agencies, the HHS FOIA office has a backlog of FOIA requests, which we are working to address. Please be further advised that we process records on a first-in, first-out basis, and currently your request is 3,062 in the "complex" queue.

It is estimated that your request will take an additional 6 months to process. I hope the information provided is helpful to you and I do apologize for any inconvenience.

Thanks,
Nusheen

From: Ian Prior <ian.prior@aflegal.org>
Sent: Tuesday, June 13, 2023 3:00 PM
To: Hill, Kathy (OS/ASPA) (CTR) <Kathy.Hill@hhs.gov>
Subject: 2023-00613-FOIA-PHS

Good afternoon,

Could you please inform me of the status of this request?

Thank you

Ian Prior
America First Legal

Sent from [Mail](#) for Windows

From: **Ian Prior** <ian.prior@aflegal.org>
Date: Wed, Oct 25, 2023 at 12:50 PM
Subject: RE: 2023-00613-FOIA-PHS
To: Sikandar, Nusheen (OS/ASPA) <Nusheen.Sikandar@hhs.gov>

Good afternoon,

I am following back up on this request and anticipated time frame for fulfillment.

Sent from [Mail](#) for Windows

From: [Sikandar, Nusheen \(OS/ASPA\)](#)
Sent: Wednesday, June 14, 2023 10:30 AM
To: ian.prior@aflegal.org
Subject: RE: 2023-00613-FOIA-PHS

Good morning Mr. Prior,

Thank you for your email regarding the above-referenced subject. The HHS FOIA office have received records that may be potentially responsive to your request. Please be advised that like other larger agencies, the HHS FOIA office has a backlog of FOIA requests, which we are working to address. Please be further advised that we process records on a first-in, first-out basis, and currently your request is 3,062 in the "complex" queue.

It is estimated that your request will take an additional 6 months to process. I hope the information provided is helpful to you and I do apologize for any inconvenience.

Thanks,

Nusheen

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

I. (a) PLAINTIFFS AMERICA FIRST LEGAL FOUNDATION (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
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(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Jacob Meckler (202) 964-3721 America First Legal Foundation 611 Pennsylvania Avenue, S.E. #231 Washington, D.C. 20003	ATTORNEYS (IF KNOWN)
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II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <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> </tbody> </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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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <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 <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

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
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Action to enforce the FOIA, 5 U.S.C. 552

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form
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DATE: 02/14/2024	SIGNATURE OF ATTORNEY OF RECORD <u>/s/ Jacob Meckler</u>
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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 services 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 if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, 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 the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), 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.

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES

Defendant

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Civil Action No. 24-439

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

The Honorable Merrick Garland
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jacob Meckler
America First Legal Foundation
611 Pennsylvania Avenue, S.E. #231
Washington, D.C. 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES

Defendant

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Civil Action No. 24-439

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

General Counsel
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jacob Meckler
America First Legal Foundation
611 Pennsylvania Avenue, S.E. #231
Washington, D.C. 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

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

AMERICA FIRST LEGAL FOUNDATION

Plaintiff

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES

Defendant

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Civil Action No. 24-439

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Department of Justice
U.S. Attorney's Office for the District of Columbia
Civil Process clerk
601 D. St. NW
Washington, D.C. 20530
Email Service to: USADC.servicecivil@usdoj.gov

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jacob Meckler
America First Legal Foundation
611 Pennsylvania Avenue, S.E. #231
Washington, D.C. 20003

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset