

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, D.C. 20201

Defendant.

Civil Action No.: 24-1270

COMPLAINT

1. The House Select Subcommittee on the Coronavirus Pandemic (“the Subcommittee”) revealed that Dr. David Morens, Senior Scientific Advisor at the National Institute of Allergy and Infectious Diseases (“NIAID”), routinely routed official communications through his personal Gmail account to avoid the transparency guaranteed under the Freedom of Information Act (“FOIA”). *See* Letter from Rep. Brad Wenstrup, Chairman, H. Select Subcomm. on the Coronavirus Pandemic, to Dr. David Morens, Senior Sci. Advisor, NIAID (June 29, 2023) (available at <https://bit.ly/44tRsWS>); Ex. 1.

2. In an email released by the Subcommittee, Dr. Morens admitted to using a personal Gmail account with the specific intent of preventing the public from

gaining access to his emails through FOIA. *Id.* at 2 (“I always try to communicate over gmail [sic] because my NIH email is FOIA’d constantly.”).

3. His other emails have suggested that his former boss, Dr. Anthony Fauci, wished to influence the COVID-19 origins narrative without his “fingerprints.” *Id.* at 1.

4. The National Institutes of Health (“NIH”) had refused to share its internal investigation findings into this potential federal records violation and stonewalled the Subcommittee’s investigation. *See* Press Release, *Wenstrup Announces Subpoena After NIH Stonewalls Investigation into Likely Federal Records Violation by Dr. Fauci’s Advisor*, H. COMM. ON OVERSIGHT & ACCOUNTABILITY (Oct. 13, 2023), <https://bit.ly/4djrf2y>.

5. The Subcommittee recently uncovered documents showing that Dr. Morens used his personal email to communicate with EcoHealth Alliance regarding official responses to the “lab leak theory” of COVID-19’s origins. *See* Press Release, *Wenstrup Announces Subpoena for Top Fauci Advisor After Whistleblower Allegations are Confirmed*, H. COMM. ON OVERSIGHT & ACCOUNTABILITY (Apr. 16, 2024), <https://bit.ly/3QauHCw> (“David – We’ll communicate with you via gmail **from now on**,” quoting an email from Peter Dazsac to Dr. Morens) (emphasis added).

6. On April 30, 2024, the Subcommittee subpoenaed Dr. Morens for documents and communications regarding the Wuhan Institute of Virology, EcoHealth Alliance, or the origins of COVID-19 that are in his possession, custody, and control. Ex. 2.

7. While Dr. Morens may have intended to place his emails beyond the reach of the FOIA, he has failed to do so. *Competitive Enter. Inst. v. Off. of Sci. & Tech. Pol'y*, 827 F.3d 145, 146 (D.C. Cir. 2016) (“an agency cannot shield its records from search or disclosure under FOIA by the expedient of storing them in a private email account”).

8. Accordingly, America First Legal Foundation (“AFL”) brings this action against the United States Department of Health and Human Services (“HHS”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552, to uncover the records that Dr. Morens concealed from the American public by using his personal Gmail account.

JURISDICTION AND VENUE

9. 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.*

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

PARTIES

11. 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.

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

13. The NIH is a component operating division within HHS.

14. The NIAID is a component institute within NIH.

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

AFL'S FOIA REQUEST

16. On July 27, 2023, AFL submitted a FOIA request to the NIH seeking any emails Dr. Morens sent or received through non-governmental email accounts in connection with his official government duties. Ex. 3.

17. The request specified custodians and sought a fee waiver. *Id.*

18. On July 27, 2023, AFL received an email from the NIH acknowledging the request. Ex. 4.

19. That email assigned AFL's request tracking number 60467. *Id.*

20. On March 21, 2024, AFL emailed the NIH to request an update on the processing of its July 27, 2023 FOIA request. Ex. 5.

21. On March 22, 2024, the NIH responded and stated, "Your request is being processed. We estimate another 4-6 months to complete." *Id.*

22. As of the date of this filing, the Defendant has not released any responsive records under this request.

23. “[A]n agency always acts through its employees and officials. If one of them possesses what would otherwise be agency records, the records do not lose their agency character just because the official who possesses them takes them out the door.” *Competitive Enter. Inst.*, 827 F.3d at 149 (emphasis added).

24. This is true even when agency officials use their personal email accounts. *Id.* at 146 (“an agency cannot shield its records from search or disclosure under FOIA by the expedient of storing them in a private email account”). The question of whether emails contained in a personal email account can fall within the scope of the FOIA has long been settled. *See, e.g., Cause of Action Inst. v. Nat’l Oceanic & Atmospheric Admin.*, No. CV 19-1927 (TSC), 2023 WL 3619345, at *4 (D.D.C. May 24, 2023) (“the use of personal email accounts [does not alter] the conclusion that the members were acting ‘on behalf of [the agency] in creating the [requested] correspondence.”); *Democracy Forward Found. v. United States Dep’t of Com.*, 474 F. Supp. 3d 69, 74 (D.D.C. 2020) (“This Circuit has made clear that ‘agency records’—even those stored on a personal email account—are subject to FOIA.”) (citing *Competitive Enter. Inst.*, 827 F.3d at 149); *Landmark Legal Found. v. E.P.A.*, 959 F. Supp. 2d 175, 181–83 (D.D.C. 2013).

25. Moreover, the Defendant has the authority—and the obligation—to retrieve official records unlawfully removed from official custody. 44 U.S.C. § 3106(a).

26. Section 3106(a) and the implementing regulations codified at 36 CFR § 1230 ensure that alienated or improperly disposed of records remain accessible to an agency if they are requested under the FOIA.

CLAIM FOR RELIEF

Violation of the FOIA, 5 U.S.C. § 552

27. AFL incorporates paragraphs 1–26 by reference.

28. AFL properly requested records within the possession, custody, and control of the Defendant.

29. The Defendant failed to conduct searches for responsive records—including agency records stored on non-governmental email accounts.

30. 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).

31. The Defendant has failed to respond to AFL’s requests within the statutory time period. *See* 5 U.S.C. § 552(a)(6).

32. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

33. The Defendant has violated the FOIA by failing, within the prescribed time limit, to reasonably search for records responsive to AFL’s FOIA request and release nonexempt records.

PRAYER FOR RELIEF

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by AFL's request must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order the Defendant to search immediately—including agency records stored on non-governmental email accounts—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 request, 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 request for a fee waiver;
- 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: April 30, 2024

Respectfully Submitted

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

Congress of the United States

House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Majority (202) 225-5074
Minority (202) 225-5051

June 29, 2023

Mr. David Morens, M.D.
Senior Scientific Advisor
Office of the Director
National Institute of Allergy and Infectious Diseases
5601 Fishers Lane, MSC 9806
Bethesda, MD 20892

Dear Dr. Morens:

Documents in possession of the Select Subcommittee on the Coronavirus Pandemic (Select Subcommittee) suggest that you may have used your personal e-mail to avoid transparency and the Freedom of Information Act (FOIA), potentially intentionally deleted federal records, and acted in your official capacity to disparage your fellow scientists, including by encouraging litigation against them.

Further, your e-mails also raise concerns that you may have knowledge or information suggesting Dr. Anthony Fauci, former Director of the National Institute of Allergy and Infectious Diseases (NIAID), wished to influence the COVID-19 origins narrative without his “fingerprints.”

This is all very troubling and raises serious questions. As such, we are requesting documents and communications from your personal e-mail and cell phone that are responsive to the Select Subcommittee’s investigation. Additionally, pursuant to the Select Subcommittee’s February 13, 2023 letter, we request you sit for an in-person transcribed interview on August 2, 2023.¹

I. You may have intentionally used your personal e-mail to avoid transparency and FOIA and may have intentionally deleted federal records.

In one e-mail you write that you “always try to communicate over gmail because my NIH email is FOIA’d constantly.”² You continue, “[d]on’t worry, just send to any of my addresses and I will delete anything I don’t want to see in the New York Times.”³

¹ Letter from Hon. Brad Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight & Accountability, to Hon. Xavier Becerra, Sec’y, U.S. Dep’t of Health and Human Servs. (Feb. 13, 2023).

² E-Mail from David Morens, M.D., Senior Scientific Advisor, Nat’l Inst. of Allergy & Infectious Diseases, to Peter Daszak, Ph.D., et. al., President, EcoHealth Alliance, Inc. (Sept. 9, 2021).

³ *Id.*

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Message

From: David Morens
[REDACTED]@gmail.com]
Sent: 9/9/2021 4:34:31 PM
To: Peter Daszak
[REDACTED]
CC: Garry, Robert F
[REDACTED]; Kristian G.
Andersen [REDACTED]
Edward Holmes
[REDACTED]
Jason Gale
[REDACTED]
Rasmussen, Angie
[REDACTED]
Robert Kessler
[REDACTED]
Stephen Goldstein
[REDACTED]
Subject: Re: here's the latest line of attack
today...

External Sender. Be aware of links, attachments and requests.

Peter and colleagues,

As you know, I try to always communicate on gmail because my NIH email is FOIA'd constantly.

Yesterday my gmail was hacked, probably by these GoF assholes, and until IT can get it fixed I may have to occasionally email from my NIH account.

It spent a couple hours today but couldn't fix it.

Stuff sent to my gmail gets to my phone, but not my NIH computer.

Don't worry, just send to any of my addresses and I will delete anything I don't want to see in the New York Times.

d

David M. Morens, MD

[REDACTED]

[REDACTED]@gmail.com
(work)
(cell)

[REDACTED]0001774

Mr. David Morens, M.D.

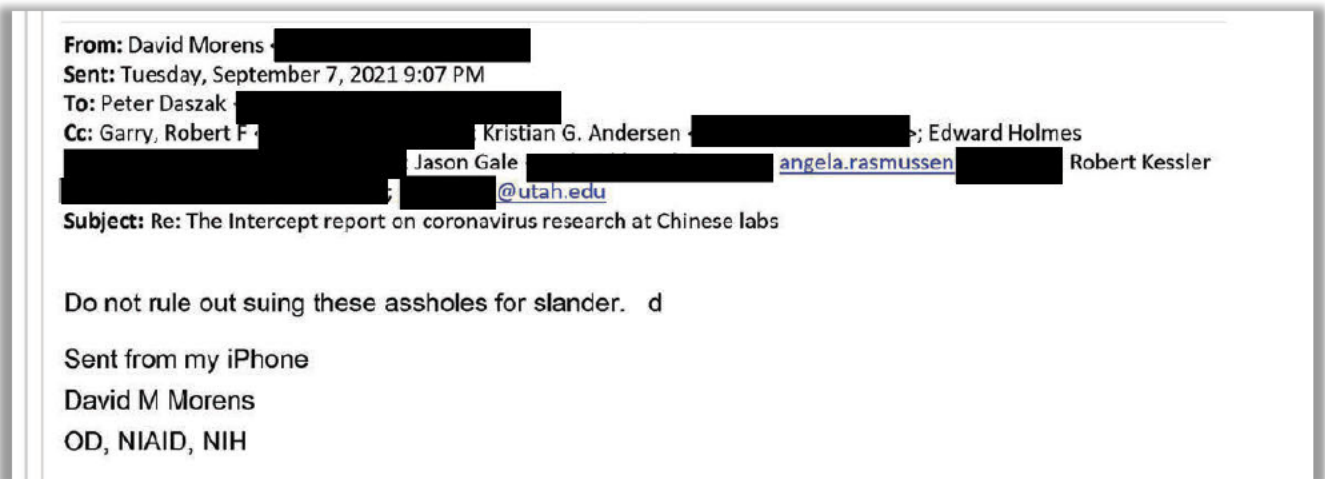
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II. You used your official capacity to disparage your fellow scientists and those whose opinion was different than your own, including by encouraging litigation against them.

In addition to your attempt to hide your involvement with certain scientists regarding the origins of COVID-19, you also appear to use your official position to disparage others you disagree with on numerous occasions.

On one occasion, in response to a report in *The Intercept* entitled, “New Details emerge About Coronavirus Research at Chinese Lab,” you use your official platform to encourage EcoHealth Alliance, Inc. President Dr. Peter Daszak to “not rule out suing these assholes for slander.”⁴ While this e-mail was also sent from your personal e-mail, your email signature includes “OD [Office of the Director], NIAID [National Institute of Allergy and Infectious Diseases], NIH [National Institutes of Health].”⁵ This gives the appearance of a government official encouraging litigation against the press for reporting that does not follow public health bureaucrats’ pre-conceived narrative and is unacceptable.



On another occasion, in response to a different scientist’s characterization of Dr. Alina Chan and Dr. Richard Ebright as espousing “amateurish, disingenuous bullshit” regarding gain-of-function research, you responded, “[a]men and good for you! You are right that Ebright and his ilk are not only NOT experts but are harmful demagogues.”⁶

⁴ E-Mail from David Morens, M.D., Senior Scientific Advisor, Nat’l Inst. of Allergy & Infectious Diseases, to Peter Daszak, Ph.D., et. al., President, EcoHealth Alliance, Inc. (Sept. 7, 2021).

⁵ *Id.*

⁶ E-Mail from David Morens, M.D., Senior Scientific Advisor, Nat’l Inst. of Allergy & Infectious Diseases, to Angela Rasmussen, Ph.D., Research Scientist II, Vaccine & Infectious Disease Organization-International Vaccine Centre (Sept. 9, 2021).

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On Thu, Sep 9, 2021 at 4:28 PM David Morens [REDACTED] wrote:

Amen and good for you! You are right that Ebright and his ilk are not only NOT experts but are harmful demagogues. They need to be called out. Because i am in government i can only fo this off the record, but i have done do again and again. Some of them are knowingly promoting false equivalences. If they interviewed a Holocaust survivor, they would say they have to give equal time and space to a Nazi murderer. They have no shame. d

Sent from my iPhone

David M Morens

OD, NIAID, NIH

On a third occasion, this time with your official e-mail address, you responded to another scientist's characterization of Dr. Chan as "quite dangerous," by stating, "I know OF Alina Chan based on two papers of hers I came across, one of which was a screed against Eddie's recent review. It seemed biased, cherry-picked, and not the work of a scientist with integrity."⁷

On 21 Aug 2021, at 1:03 am, Morens, David (NIH/NIAID) [E] <[REDACTED]@niaid.nih.gov> wrote:

Thanks to both you and Kristian. Very heelpful to know what the experts think, because 5o us mere mortals, phylogenetic and sequencing interpretation is a bit inscrutable.

Yes, although I don't know her personally, I know OF Alina Chan based on two papers of hers I came across, one of which was a screed against Eddie's recent review. It seemed biased, cherry-picked, and not the work of a scientist with integrity.

<image004.gif>

David M. Morens, M.D.

CAPT, United States Public Health Service

Senior Advisor to the Director

Office of the Director

National Institute of Allergy and Infectious Diseases

National Institutes of Health

[REDACTED]
Bethesda, MD 20892-2520

[REDACTED] (assistant: [REDACTED])

[REDACTED]
[REDACTED]@nih.gov

Disclaimer: This message is intended for the exclusive use of the recipient(s) named above. It may contain information that is PROTECTED, PRIVILEGED, and/or CONFIDENTIAL, and it should not be disseminated, distributed, or copied to persons not authorized to receive such information. All sensitive documents must be properly labeled before dissemination via email. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

⁷ E-Mail from David Morens, M.D., Senior Scientific Advisor, Nat'l Inst. of Allergy & Infectious Diseases, to Robert Garry, Professor, Tulane School of Medicine (Aug. 21, 2021).

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These e-mails raise additional serious concerns about your objectivity while stationed in the Office of the Director of NIAID—an agency that obligates billions of dollars annually. The Select Subcommittee has questions about whether you made or influenced any funding decisions based on your personal motives or biases towards scientists.

III. You spoke with reporters regarding the origins of COVID-19 potentially because Dr. Anthony Fauci wished to influence the COVID-19 origins narrative without his “fingerprints.”

Documents previously released by the Select Subcommittee established that, according to e-mails, Drs. Fauci and Francis Collins “prompted” the drafting of a paper to “disprove” the lab leak theory.⁸ This paper turned into “The Proximal Origin of SARs-CoV-2” (Proximal Origin).⁹ After increased pressure from Dr. Collins, Dr. Fauci appeared to cite Proximal Origins from the White House podium to downplay the lab leak theory.¹⁰ At the time, however, Dr. Fauci publicly claimed to not remember the name of the paper or those who wrote it.¹¹ Yet, in response to a private follow-up question from a member of the press, Dr. Fauci cited Proximal Origins—the paper he “prompted” a few months earlier—as proof COVID-19 was not the result of a lab leak.¹²

New e-mails suggest that Dr. Fauci took additional efforts to tamp down the lab leak theory by requesting you speak with the press regarding the origins of COVID-19, because he did not want to directly influence the stories.¹³ On July 29, 2021, you wrote, “[b]ut today, to my total surprise, my boss tony [Fauci] actually ASKED me to speak to the National Geographic on the record about origins. I interpret this to mean that our government is lightening up[,] but that *Tony doesn’t want his fingerprints on origin stories.*”¹⁴

⁸ Memorandum from Select Subcomm. on the Coronavirus Pandemic Staff to Select Subcomm. on the Coronavirus Members (Mar. 5, 2023).

⁹ Kristian Andersen, Ph.D., et. al., *The Proximal Origin of SARS-CoV-2*, NATURE MEDICINE (Mar 17, 2020).

¹⁰ Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing, The White House (Apr. 17, 2020).

¹¹ *Id.*

¹² E-Mail from Anthony Fauci, M.D., Dir., Nat’l Institute of Allergy & Infectious Diseases, to Bill Gertz, Nat’l Sec. Correspondent, The Washington Times (Apr. 19, 2020).

¹³ E-Mail from David Morens, M.D., Senior Scientific Advisor, Nat’l Inst. Of Allergy & Infectious Diseases, to Jason Gale, Bloomberg (July 29, 2021).

¹⁴ *Id.* (emphasis added).

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From: [REDACTED]@niaid.nih.gov At: 07/29/21 07:38:47
To: Jason Gale (BLOOMBERG/ NEWSROOM:) , [REDACTED]@TULANE.EDU,
[REDACTED]@sydney.edu.au, [REDACTED]@utah.edu
Subject: RE: Fwd:Re: URGENT: Seeking comment on paper in Nature:
Scientific reports

Jason, I can almost always talk on background or off the record, and if needed I MIGHT be able to speak ON the record. In the US government we all have to get approval from HHS or the Whitehouse to speak to the press. Sometimes they are touchy about certain issues and say no. For many months, I have not been approved to talk about "origins" on the record.

But today, to my total surprise, my boss Tony actually ASKED me to speak to the National Geographic on the record about origins. I interpret this to mean that our government is lightening up but that Tony doesn't want his fingerprints on origin stories.

Bottom line, I can speak to you on background and, if you need or want quotations or attributions, you can request to speak to me formally. They can only say no or, better yet, steer you to Tony....

Have you asked Dr. Newman when he might be able to share the paper he mentioned? I would love to see that....

<mime-attachment.gif>

David M. Morens, M.D.

CAPT, United States Public Health Service

Senior Advisor to the Director

Office of the Director

National Institute of Allergy and Infectious Diseases

National Institutes of Health
[REDACTED]

[REDACTED]0001347

In the interview referenced in your e-mail, you not only strongly imply against a lab leak, but go further and imply the U.S. should stop searching for or investigating the origins of COVID-19. You stated, "[t]here is progenitor virus out there somewhere, and we should look for it...[b]ut at some point, it crosses over from doing due diligence to wasting time and being crazy.

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We may have seen that point already.”¹⁵ To be clear, investigating the source of a pandemic that has killed more than one million Americans is not “wasting time” or “being crazy.”¹⁶ This raises the question of whether this was the narrative Dr. Fauci approved you to say.

To better assist the Select Subcommittee in its investigation of the origins of COVID-19 and, in this case, any potential violations of federal record keeping laws, and considering your use of personal e-mail for official purposes specifically discussing these issues, we therefore request the following documents and information from any personal e-mail accounts, but primarily [REDACTED] and any personal cell phones, but primarily [REDACTED], as soon as possible but no later than July 13, 2023:

1. All documents and communications regarding the drafting, publication, or critical reception of the following publications:
 - a. The Correspondence in *The Lancet* titled, “Statement in support of the scientists, public health professionals, and medical professionals of China combatting COVID-19.”
 - b. The Correspondence in *Nature Medicine* titled, “The proximal origin of SARS-CoV-2.”
 - c. The Letter in *Science* titled, “Investigate the origins of COVID-19.”
 - d. The Review in *Cell Press* titled, “The origins of SARS-CoV-2: A critical review.”
 - e. The Publication in *Science* titled, “The Hunan Seafood Wholesale Market in Wuhan was the early epicenter of the COVID-19 pandemic.”
 - f. The Publication in *Science* titled, “The molecular epidemiology of multiple zoonotic origins of SARS-CoV-2.”
 - g. The Publication in *The Lancet* titled, “The *Lancet* Commission on lessons for the future from the COVID-19 pandemic.”
 - h. The Perspective in *The Proceedings of the National Academy of Sciences* titled, “Pandemic origins and a One Health approach to preparedness and prevention: Solutions based on SARS-CoV-2 and other RNA viruses.”

¹⁵ Priyanka Runwal, *Why it's so tricky to trace the origin of COVID-19*, NAT'L GEOGRAPHIC (Sept. 13, 2021).

¹⁶ Jesse D. Bloom, et. al., *Investigate the origins of COVID-19*, SCIENCE (May 14, 2021); Jeffrey D. Sachs, et. al., *The Lancet Commission on lessons learned for the future from the COVID-19 pandemic*, THE LANCET (Sept. 14, 2022).

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- i. The Report in *Zenodo* titled, “Genetic evidence of susceptible wildlife in SARS-CoV-2 positive samples at the Huanan Wholesale Seafood Market, Wuhan: Analysis and interpretation of data released by the Chinese Center for Disease Control.”
 - j. The Pre-Print Publication in *Nature* titled, “Surveillance of SARS-CoV-2 in the environment and animal samples of the Huanan Seafood Market.”
 2. All documents and communications, including text messages, regarding the Wuhan Institute of Virology, EcoHealth Alliance, Inc., or the origins of COVID-19 between November 1, 2019, and present between yourself and the following individuals or regarding or referencing the following individuals:
 - a. Anthony Fauci
 - b. Francis Collins
 - c. Lawrence Tabak
 - d. Hugh Auchincloss
 - e. Cliff Lane
 - f. David Morens
 - g. Ping Chen
 - h. Ian Watson
 - i. Andrew Pope
 - j. Victor Dzau
 - k. Robert Redfield
 - l. Michael Lauer
 - m. David Christian Hassell
 - n. Jeremy Farrar
 - o. Robert Garry
 - p. Michael Farzan
 - q. Edward Holmes
 - r. W. Ian Lipkin
 - s. Andrew Rambaut
 - t. Peter Daszak
 - u. Aleksei Chmura
 - v. Kevin Olival
 - w. Christian Drosten
 - x. Ron Fouchier
 - y. Marion Koopmans
 - z. Michael Worobey
 - aa. Jonathan Pekar
 - bb. Florence Debarre
 - cc. Angela Rasmussen
 - dd. Ralph Baric
 - ee. James LeDuc
 - ff. Shi Zhengli

Mr. David Morens, M.D.

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gg. Ben Hu
hh. Yu Ping
ii. Yan Zhu
jj. Zhou Yusen
kk. Peter Hotez
ll. Richard Ebright
mm. Y. Alina Chan
nn. Jesse Bloom
oo. David Relman

The Select Subcommittee on the Coronavirus Pandemic is authorized to investigate “the origins of the Coronavirus pandemic, including but not limited to the Federal Government’s funding of gain-of function research” and “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus pandemic” under H. Res. 5. To schedule the interview or ask any follow-up or related questions please contact Select Subcommittee staff at (202) 225-5074.

Thank you for your attention to this very important matter.

Sincerely,



Brad R. Wenstrup, D.P.M.

Chairman

Select Subcommittee on the Coronavirus Pandemic

cc: The Honorable Raul Ruiz, Ranking Member
Select Subcommittee on the Coronavirus Pandemic

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

David Morens

To _____

You are hereby commanded to be and appear before the
Committee on Oversight and Accountability

Select Subcommittee on the Coronavirus Pandemic

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building, Washington, D.C. 20515

Date: April 30, 2024 Time: 12:00p.m.

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To any authorized staff member or the U.S. Marshals Service _____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at
the city of Washington, D.C. this 16 day of April, 2024.

James Comer
Chairman or Authorized Member

Attest: Kevin F. McAuliffe

Clerk

Schedule to Subpoena

In accordance with the attached Schedule instructions, you, Dr. David Morens, are required to produce the following documents and communications that are in your possession, custody, or control in unredacted form:

1. All documents and communications regarding the Wuhan Institute of Virology, EcoHealth Alliance, Inc., or the origins of COVID-19 between November 1, 2019, and present between yourself and the following individuals or regarding or referencing the following individuals:
 - a. Anthony Fauci
 - b. Francis Collins
 - c. Lawrence Tabak
 - d. Hugh Auchincloss
 - e. Cliff Lane
 - f. Ping Chen
 - g. Robert Redfield
 - h. Michael Lauer
 - i. Jeremy Farrar
 - j. Kristian Andersen
 - k. Robert Garry
 - l. Michael Farzan
 - m. Edward Holmes
 - n. W. Ian Lipkin
 - o. Andrew Rambaut
 - p. Peter Daszak
 - q. Aleksei Chmura
 - r. Christian Dorsten
 - s. Ron Fouchier
 - t. Marion Koopmans
 - u. Michael Worobey
 - v. Jonathan Pekar
 - w. Florence Debarre
 - x. Angela Rasmussen
 - y. Ralph Baric
 - z. James LeDuc
 - aa. Shi Zhengli
 - bb. Ben Hu
 - cc. Yu Ping
 - dd. Yan Zhu
 - ee. Zhou Yusen
 - ff. Peter Hotez
 - gg. Alina Chan
 - hh. Jesse Bloom
 - ii. David Relman

Schedule Instructions

1. In complying with this subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. You should also produce any responsive documents or communications from any Slack channel that you own, is in your primary control, or have access to. Subpoenaed records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the subpoena was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the subpoenaed information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the subpoena cannot be made in full by April 30, 2024 at 12:00 noon, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided no later than April 23, 2024 at 12:00 noon.
12. In the event that a document is withheld on any basis, provide a log containing the following information concerning any such document: (a) the basis for withholding the document; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
13. In complying with the subpoena, be apprised that the U.S. House of Representatives and the Committee do not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
14. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
15. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
16. This subpoena is continuing in nature and applies to any newly discovered information. Any responsive record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing; as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.



July 27, 2023

Via NIH FOIA Portal

NIH FOIA Office
Building 1, Room 344
1 Center Drive, MSC 0188
Bethesda, Maryland 20892-0188

Freedom of Information Act Request: Emails of Dr. David Morens

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 78,000 unique addresses, our Twitter page has 136,900 followers, the Twitter page of our Founder and President has over 482,000 followers, our Facebook page has 139,000 followers, and we have another approximately 31,900 followers on GETTR.

I. Introduction

It has recently come to light that Dr. David Morens, the Senior Scientific Advisor to the Director of the National Institute of Allergy and Infectious Diseases (NIAID), made a routine practice of routing official government communications through his own personal Gmail account. Indeed, he said as much in an email to his colleagues that was recently released by the House Select Subcommittee on the Coronavirus

611 Pennsylvania Ave SE #231
Washington, DC 20003

320 South Madison Avenue
Monroe, Georgia 30655

Pandemic.¹ In that email he admitted to using a personal Gmail account with the specific intent of preventing the public from gaining access to his emails through the use of the FOIA. While Dr. Morens may have intended to place his emails beyond the reach of the FOIA, he has failed to do so.

Circuit law is clear: “[A]n agency always acts through its employees and officials. If one of them possesses what would otherwise be agency records, *the records do not lose their agency character just because the official who possesses them takes them out the door.*” *Competitive Enter. Inst. v. Off. of Sci. & Tech. Pol’y*, 827 F.3d 145, 149 (D.C. Cir. 2016) (emphasis added). This is true even when agency officials use their personal email accounts. *Id.*, at 146 (“an agency cannot shield its records from search or disclosure under FOIA by the expedient of storing them in a private email account”). The question of whether emails contained in a personal email account fall within the scope of the FOIA has long been settled. *See, e.g., Cause of Action Inst. v. Nat’l Oceanic & Atmospheric Admin.*, No. CV 19-1927 (TSC), 2023 WL 3619345, at *4 (D.D.C. May 24, 2023) (“the use of personal email accounts [does not alter] the conclusion that the members were acting ‘on behalf of’ [the agency] in creating the [requested] correspondence.”); *Democracy Forward Found. V. United States Dep’t of Com.*, 474 F.Supp. 3d 69, 74 (D.D.C. 2020) (“This Circuit has made clear that ‘agency records’—even those stored on a personal email account—are subject to FOIA.”) (citing *Competitive Enter. Inst.*, *supra*); *Landmark Legal Found. v. E.P.A.*, 959 F.Supp. 2d 175, 181–183 (D.D.C. 2013).

Moreover, the NIH has the authority—and the obligation—to retrieve official records unlawfully removed from official custody. *See* 44 U.S.C. § 3106(a). Accordingly, AFL requests the following records pursuant to the FOIA, 5 U.S.C. § 552.

II. Requested Records

All emails sent or received by Dr. David Morens in connection with the transaction of government business using any non-governmental email account, including the Gmail account referenced by the letter cited in footnote 1.

III. Special Definitions

An “email sent or received in connection with the transaction of government business” shall be read to include, at a minimum, any email where Dr. Morens uses his official NIH title in the signature block or body of the email, and any other email or emails in the same thread.

¹ Letter from Rep. Brad Wenstrup, Chairman, H. Select Subcomm. on the Coronavirus Pandemic, to Dr. David Morens, Senior Sci. Advisor, Nat’l Inst. of Allergy and Infectious Diseases at 2 (Jun. 29, 2023) (available at <https://bit.ly/44tRsWS>) (“I always try to communicate over gmail because my NIH email is FOIA’d constantly.”).

IV. Processing

The agency must comply with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines.² If you have any questions or believe further discussions regarding search and processing will facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org.

V. Fee Waiver

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54, AFL requests a waiver of all search and duplication fees associated with this request. First, AFL is a qualified non-commercial public education and news media requester. Our officials routinely appear on national television and use social media platforms to disseminate the information it has obtained about federal government activities. In this case, AFL will make your records and your responses publicly available for the benefit of citizens, scholars, and others, and the public's understanding of your policies and practices will be enhanced through AFL's analysis and publication of the requested records. As a nonprofit organization, AFL does not have a commercial purpose and the release of the information requested is not in AFL's financial interest. Accordingly, AFL has been granted fee waivers on this basis by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security, and the Office of the Director of National Intelligence. Second, waiver is proper as disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government."³

VI. Production

To accelerate the release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,
/s/ Jacob Meckler
Jacob Meckler
America First Legal Foundation

² U.S. Dep't Just. (Mar. 15, 2022), <https://tinyurl.com/4duy4r5k>.

³ 5 U.S.C. § 552(a)(4)(A)(iii).



AFL FOIA <foia@aflegal.org>

Status Update for Request #60467

1 message

foia_noreply@nih.gov <foia_noreply@nih.gov>
To: foia@aflegal.org

Thu, Jul 27, 2023 at 3:57 PM

Dear Gene Hamilton,

The status of your FOIA request #60467 has been updated to the following status 'Received'. To log into the NIH FOIA Public Portal click on the Application URL below.

<https://foiportal.nih.gov>

Sincerely,

National Institutes of Health



AFL FOIA <foia@aflegal.org>

NIH/NIAID FOIA Request #60467

Citarella, Kara (NIH/NHLBI) [C] <kara.citarella@nih.gov>
To: "foia@aflegal.org" <foia@aflegal.org>

Fri, Mar 22, 2024 at 3:40 PM

Good afternoon,

This email is in response to your inquiry for a status update on your FOIA request, which reads as follows: "All emails sent or received by Dr. David Morens in connection with the transaction of government business using any non-governmental email account, including the Gmail account referenced by the letter cited in footnote 1." The date range for the record search is from 1/1/1998 To 1/20/2025. We noted in our interim letter to you that we cannot search future dates. Under FOIA, we can only search for records that exist at the time the search is conducted.

Your request is being processed. We estimate another 4-6 months to complete.

Thank you.

Kara Citarella

Policy/FOIA Analyst

Freedom of Information and Privacy Act Branch/FOIA Service Center

National Heart, Lung and Blood Institute (NHLBI), NIH

GAP Solutions, Inc.

kara.citarella@nih.gov

301.496.9737

From: AFL FOIA <foia@aflegal.org>
Sent: Thursday, March 21, 2024 10:08 AM
To: Citarella, Kara (NIH/NHLBI) [C] <kara.citarella@nih.gov>
Subject: [EXTERNAL] Re: NIH/NIAID FOIA Request #60467

Can you please provide an update on this FOIA request?

On Fri, Jul 28, 2023 at 3:56 PM Citarella, Kara (NIH/NHLBI) [C] <kara.citarella@nih.gov> wrote:

Mr. Hamilton,

Please see the attached in reference to your FOIA request. Thank you.

Kara Citarella

Policy/FOIA Analyst

Freedom of Information and Privacy Act Branch/FOIA Service Center

National Heart, Lung and Blood Institute (NHLBI), NIH

GAP Solutions, Inc.

kara.citarella@nih.gov

301.496.9737

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and are confident the content is safe.

<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 USC 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: April 30, 2024	SIGNATURE OF ATTORNEY OF RECORD: /s/ Jacob Meckler
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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 coversheet. 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**

CLEAR FORM

America First Legal Foundation

Plaintiff

v.

United States Department of Health and Human Services

Defendant

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Civil Action No. **24-1270**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Attorney General Merrick B. Garland
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

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 SE #231
Washington, D.C. 20003
(202) 964-3721

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. 24-1270

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 _____.

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**

CLEAR FORM

America First Legal Foundation

Plaintiff

v.

United States Department of Health and Human Services

Defendant

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Civil Action No. **24-1270**

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 SE #231
Washington, D.C. 20003
(202) 964-3721

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. 24-1270

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 _____.

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**

CLEAR FORM

America First Legal Foundation

Plaintiff

v.

United States Department of Health and Human Services

Defendant

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Civil Action No. **24-1270**

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Civil Process Clerk
U.S. Attorney's Office for D.C.
601 D Street, NW
Washington, DC 20530

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 SE #231
Washington, D.C. 20003
(202) 964-3721

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. 24-1270

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 _____.

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