

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

BROWARD BULLDOG, INC. and
DAN CHRISTENSEN,

Plaintiffs,

v.

Case No. 16-61289-CIV-ALTONAGA

U.S. DEPARTMENT OF JUSTICE
and FEDERAL BUREAU OF
INVESTIGATION,

Defendants.

ANSWER AND AFFIRMATIVE DEFENSES

Defendants, the U.S. Department of Justice, (“DOJ”) and the Federal Bureau of Investigation, (“FBI”), by and through their undersigned counsel, hereby answers plaintiffs’ Complaint as follows:

DEFENDANT’S RESPONSES TO THE NUMBERED PARAGRAPHS

In response to the numbered paragraphs of the Complaint, defendants answer as follows:

PRELIMINARY STATEMENT

1. This statement consists of plaintiffs’ preliminary statement citing the statutory basis for the complaint. Insofar as an answer is required, the statement is denied.

2. This paragraph consists of a description of the relief plaintiffs seek in this action. Defendants deny that plaintiffs are entitled to such relief.

3. This paragraph consists of a description of the 911 Review Commission Report. Defendant respectfully refers the Court to the Report as referenced by plaintiffs for an accurate description of the report’s content.

4. This paragraph sets forth the FOIA requests that are at issue in this litigation.

Defendants admit Plaintiffs submitted three FOIA requests.

5. This paragraph provides an explanation of plaintiffs' basis for making the FOIA requests at issue. Defendants are without sufficient knowledge as to plaintiffs' reasons for making the requests to admit or deny the same. As for plaintiffs' allegations regarding the 911 Commission Report, defendants respectfully refer the Court to the Report for an accurate description of its content.

6. Defendants are without sufficient knowledge of plaintiffs' beliefs regarding the 9/11 Review Commissions findings to admit or deny the same.

7. Defendants admit that plaintiffs filed a prior suit pursuant to the FOIA which is captioned Broward Bulldog, Inc., v. U.S. Department of Justice, Civil Action No. 12-61735 (S.D. Fla.), but deny the remaining allegations in this paragraph.

JURISDICTION AND VENUE

8. Defendants admit that the Court has subject matter jurisdiction over this action.

9. Defendants admit that venue is appropriate in this district.

PLAINTIFFS

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of the statements in this paragraph.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the statements in this paragraph.

DEFENDANTS

12. Defendants admit the allegations in this paragraph, but note that the proper party defendant is the Department of Justice and not the FBI.

13. Defendants deny that the FBI is a proper party defendant pursuant to 5 U.S.C. Section 552(f)(1), and deny that the FBI possesses all records responsive to plaintiffs' requests.

FACTS COMMON TO ALL COUNTS

14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

15. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

16. Defendants deny the allegations in this paragraph and respectfully refer the Court to the cited public statements for their true content.

17. Defendant respectfully refers the Court to Senator Graham's statements for an accurate description of their contents.

18. This paragraph describes plaintiffs' reason for submitting the FOIA request. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

19. Defendants admit that plaintiffs filed a FOIA request and respectfully refer the Court to the prior litigation for an accurate description of the prior FOIA proceedings.

20. Defendants respectfully refer the Court to the prior FOIA litigation for an accurate representation of the proceedings.

21. Defendants respectfully refer the Court to the prior FOIA litigation for an accurate representation of the proceedings.

22. Defendants respectfully refer the Court to the 911 Review Commission report for an accurate description of the Commission proceedings.

23. Defendants respectfully refer the Court to the Congressional cite provided by plaintiffs for information regarding this paragraph.

24. Defendants respectfully refer the Court to the prior FOIA litigation for a complete and accurate representation of the proceedings and the records described in this paragraph.

25. Defendants respectfully refer the Court to the prior FOIA litigation for a complete and accurate representation of the proceedings and the records described in this paragraph.

26. Defendants respectfully refer the Court to the prior FOIA litigation for an accurate representation of the proceedings.

27. Defendants respectfully refer the Court to the cited record of the Congressional proceeding for its content.

28. Defendants respectfully refer the Court to the prior FOIA litigation for an accurate representation of the proceedings.

29. Defendants respectfully refer the Court to the prior FOIA litigation for an accurate representation of the proceedings.

30. Defendants respectfully refer the Court to the prior FOIA litigation for an accurate representation of the proceedings.

31. Defendants respectfully refer the Court to the cited record of the Congressional proceeding for its content.

32. Defendants respectfully refer the Court to plaintiffs' cited exhibit for an accurate representation of its content.

33. Defendants respectfully refer the Court to plaintiffs' cited exhibit for an accurate representation of its content.

34. Defendants respectfully refer the Court to plaintiffs' cited exhibit for its content.

35. Defendants respectfully refer the Court to plaintiffs' cited exhibit for its content.

36. Defendants respectfully refer the Court to plaintiffs' cited exhibit for its content.

37. Defendants respectfully refer the Court to plaintiffs' cited exhibit for its content.

38. This paragraph contains plaintiffs' summary of the report. Defendants respectfully refer the Court to the cited exhibit for a complete and accurate description of its content.

39. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

40. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

Count 1

41. Defendants repeat and incorporate by reference their responses to paragraphs 1 - 40.

42. Defendants respectfully refer the Court to plaintiffs' April 8, 2015 FOIA request for a true and accurate description of its content.

43. Defendants admit acknowledging receipt of the request and assigning it a FOIPA number.

44. Defendants deny the allegation in this paragraph.

45. Defendants deny the allegation in this paragraph.

46. Defendants admit notifying plaintiffs of unusual circumstances that would delay the processing of the request.

47. Defendants deny the allegation in this paragraph.

48. Defendants deny the allegation in this paragraph.

49. Defendants deny the allegation in this paragraph. Paragraphs 50 A - G. These paragraphs contain plaintiffs' demand for relief to which no response is required. To the extent a response is deemed required, defendants deny that plaintiffs are entitled to relief.

Count II

51. Defendants repeat and incorporate by reference their responses to paragraphs 1 - 40.

52-53. Defendants respectfully refer the Court to plaintiffs' request for a true and accurate description of its content but aver that the correct date of the request is July 4, 2015.

54. Defendants deny the allegation in this paragraph.

55. Defendants respectfully refer the Court to the cited letter for a true and accurate description of its contents.

56. Defendants deny the allegation in this paragraph.

57. Defendants deny the allegation in this paragraph.

58. A - G. These paragraphs contain plaintiffs' demand for relief to which no response is required. To the extent a response is deemed required, defendants deny that plaintiffs are entitled to relief.

Count III

59. Defendants repeat and incorporate by reference their responses to paragraphs 1 - 40.

60. Defendants respectfully refer the Court to the cited letter for a true and accurate description of its contents but aver that the correct date of the request is July 4, 2015.

61. This paragraph concerns plaintiffs' reasons for submitting the second July 4, 2016 request. Defendants lack information or knowledge sufficient to admit or deny the same.

62. Defendants respectfully refer the Court to the FBI's response letter for a true and accurate description of its contents.

63. Defendants deny the allegation in this paragraph.

64. Defendants admit that plaintiffs submitted an administrative appeal.

65. Defendants admit that an FBI representative contacted plaintiff Christensen to determine if his April 4, 2015 and July 4, 2015 requests could be combined.

66. Defendants admit the allegation in this paragraph.

67. A – G. These paragraphs contain plaintiffs' demand for relief to which no response is required. To the extent a response is deemed required, Defendants deny that plaintiffs are entitled to relief.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs are not entitled to compel the production of records protected from disclosure by one or more of the exemptions to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

THIRD DEFENSE

The Court lacks subject matter jurisdiction over plaintiffs' request to the extent that the request exceeds relief authorized by the Freedom of Information Act. 5 U.S.C. § 552 (a)(4)(B).

FOURTH DEFENSE

The FBI is not an "agency" within the meaning of the FOIA, 5 U.S.C. § 552(f)(1), and is, therefore, not a proper party defendant.

Dated: July 25, 2016
Miami, Florida

Respectfully submitted,
WIFREDO A. FERRER

UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2016, I filed the foregoing document with the Clerk of the Court, using the CM/ECF system.

/s/ Carlos Raurell
CARLOS RAURELL
Assistant United States Attorney