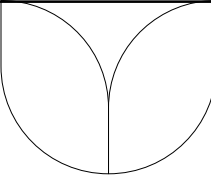
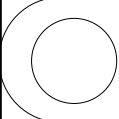


A Requester Submits an Appeal or Files Suit Against the Agency

What happens now?





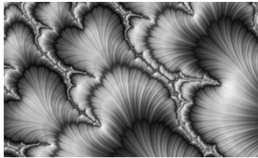
Kellie Robinson
Department of State

Toni Fuentes
Department of Defense

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Introduction

A little about me...




WHO DO WE HAVE IN THE ROOM?

NAME?

YEARS IN FOIA?

YEARS IN FOIA LITIGATION?

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Agenda

- Introduction and Appeals
- Why do requesters go to FOIA Litigation?
- How & Where do requesters file?
- The Culture in the Office
- The process involved...
- Summary

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Why do requesters submit an appeal?

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Why do requesters go to FOIA Litigation?

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FOIA Appeal – Why?

- Requester may appeal an initial agency decision within 90 days
- Agency receives an appeal
- Review of complete administrative file
- Second review conducted
- Final agency decision

Challenge Redactions
Challenge Searches

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FOIA Appeal – Why?

Disposition of Administrative Appeals

- Affirmed
- Completely Reversed/Remanded
- Partially Affirmed & Partially Reversed/Remanded
- Closed for Other Reasons

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FOIA Appeal – Why?

Reasons for Denial on Appeal

- Exemptions
- Reasons other than exemptions
 - No Record
 - Referred at Initial Request
 - Request Withdrawn
 - Fee-Related Reason
 - Records not Reasonably Described
 - Improper Request for Other Reasons
 - Not an Agency Record
 - Duplicate Request or Appeal
 - Request in Litigation

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FOIA Litigation – Why?

Requester may file suit after the final agency decision

Challenge Redactions

Challenge Searches

*Requesters must first exhaust administrative remedies

Failure to respond timely

*Appeal not required

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FOIA Litigation – Why?

Requester may file suit after the final agency decision

Challenge Redactions

Challenge Searches

*Requesters must first exhaust administrative remedies

Failure to respond timely

*Appeal not required

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FOIA Litigation – Why?

Requester may file suit after the final agency decision

Challenge Redactions

Challenge Searches

*Requesters must first exhaust administrative remedies

Failure to respond timely

*Appeal not required

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Where do cases get filed?

Jurisdiction & Venue

• U.S. District Courts

Where?

- ✓ Home Residence
- ✓ Employment Address
- ✓ Where Records are Located
- ✓ District Court in Washington, DC

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Let's Talk Culture in Litigation

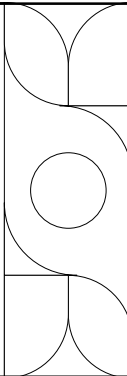
Deadlines, Deadlines, Deadlines!

Case Ownership

- Must have case coverage
- Productions
- No Two Cases are Identical

TeamWork makes the DreamWork

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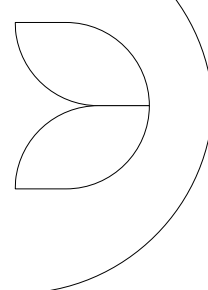


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We have a New Case...

A complaint has been filed...

A complaint is the pleading that starts a case. Essentially, a document that sets forth a jurisdictional basis for the court's power, the plaintiff's cause of action, and a demand for judicial relief.



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A Sample Complaint

Case 1:07-cv-00371 Document 36 Filed 07/27/07 Page 1 of 3

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WISCONSIN ORPHEX, LLC,
Defendant, v. The Board of AZ
Horse Shows, Inc.,
Plaintiff.

No. 07-CV-371
Judge Kovacs
Magistrate Judge Beron

Defendant:

WISCONSIN ORPHEX, LLC, d/b/a WISCONSIN ORPHEX, INC.,
d/b/a WISCONSIN ORPHEX, INC. (hereinafter "Defendant")
Defendant, v. The Board of AZ Horse Shows, Inc. (hereinafter "Plaintiff")
Plaintiff. Defendant was served with a copy of the Complaint and Summons on July 3, 2007 and its deadline to answer or otherwise plead is July 25, 2007.

1. On June 15, 2007, Plaintiff filed the Class Action Complaint. Defendant was served with a copy of the Complaint and Class Action Complaint on July 3, 2007 and its deadline to answer or otherwise plead is July 25, 2007.

2. The Class Action Complaint is 121 pages long and alleges infringement and deceptive practices of registered marks, trade names, logos and other distinctive indicia marks.

3. Given the length of the Class Action Complaint and the nature of its claims,

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Some Common Terms...

What's a:

- Complaint
- Answer
- Production
- Status Report
- Declaration
- Vaughn
- Plaintiff
- AUSA

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15 Key Steps in the Process

1. Complaint Filed
2. Gathering Information
3. Responsive Pleading
4. Tasking and Monitoring Searches
5. Drafting Search Descriptions
6. Review of Records
7. Production Schedules

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15 Key Steps in the Process cont'd

8. Processing Consultations from Other Agencies
9. Productions
10. Status Reports
11. Status Conferences
12. Settlements
13. Motions for Summary Judgment and Court Filings
14. Declarations and *Vaughn* Indexes
15. Reaching Settlement on Fees and Costs after the Conclusion of a Case

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Summary

We've now gone over ALL the Who, What, When, Where and How of FOIA LITIGATION. Hope you've found the time spent here to be helpful, leaving you enlightened with a basic background and understanding. Remember, every case is different and you will learn something new with each case.

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ANY FINAL Q&A's?

Thank You!

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