

**Scharf-Norton Center for
Constitutional Litigation at the
GOLDWATER INSTITUTE**

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Attorneys for Plaintiff

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

Barry Goldwater Institute for Public Policy
Research,

Plaintiff,

vs.

U.S. Equal Employment Opportunity
Commission,

Defendants,

No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), for declaratory, injunctive, and other appropriate relief, seeking the disclosure of agency records improperly withheld from Plaintiff Goldwater Institute (“Institute”) by Defendant U.S. Equal Employment Opportunity Commission (“EEOC”).

1. The Goldwater Institute is a free-market public policy organization dedicated to advancing the principles of limited government, economic freedom, and individual liberty, with a focus on education, free speech, healthcare, property rights, and constitutional limits. The Institute regularly publishes scholarly articles, opinion pieces, blog posts, and interacts with the public regularly through the news media and its own distribution channels discussing pressing issues of public policy and of public interest and importance.

2. On September 29, 2023, the EEOC issued a press release announcing a suit against Meathead Movers, an independent California moving company, for alleged age

1 discrimination. The press release and the lawsuit that accompanies it generated both local
2 and national media.

3 3. Based on media reports, it appears there were few if any employee or
4 consumer “complaints” behind the lawsuit.

5 4. Instead, the EEOC launched its own investigation into Meathead Movers
6 and then filed an “agency-initiated” lawsuit against the company.

7 5. The Institute submitted a public records request to the EEOC under the
8 FOIA for information intended to inform the Institute and the public on matters of public
9 concern involving the activities of the federal government. Specifically, the Institute
10 sought limited records pertaining to the total number of complaints against Meathead
11 Movers, publicly-available information about the EEOC’s investigation of Meathead
12 Movers, information about other agency-initiated lawsuits, including allegations of age
13 discrimination, and communications about Meathead Movers, including to and from
14 specific EEOC officials.

15 6. The EEOC either failed to respond to the Institute’s requests in the
16 statutorily required timeframe, or claimed FOIA exemptions that are inapplicable, or for
17 which the EEOC has not met its burden of showing that the exemptions were properly
18 applied either to entire records or to certain portions of records. The EEOC also failed to
19 conduct an adequate search for responsive records.

20 7. Based on the EEOC’s failure to comply with the FOIA, the Institute now
21 seeks judicial relief to compel the production of records responsive to the Institute’s
22 Request.

23 **Jurisdiction and Venue**

24 8. This Court has jurisdiction over this action pursuant to 5 U.S.C.
25 § 552(a)(4)(B) and 28 U.S.C. § 1331.

26 9. Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B).

27 **PARTIES**

28 10. Plaintiff Goldwater Institute is a domestic non-profit 501(c)(3) corporation

1 based in Phoenix, Arizona.

2 11. Defendant U.S. Equal Employment Opportunity Commission is an agency
3 of the federal government within the meaning of 5 U.S.C. § 552(f)(1).

4 **BACKGROUND**

5 12. On March 7, 2025, the Institute submitted a public records request to the
6 EEOC through its online portal and email. Attached hereto and incorporated herein, as
7 Exhibit A.

8 13. The request sought the following documents and records:

9 (1) The total number of complaints submitted to the U.S. Equal
10 Employment Opportunity Commission (“EEOC”) pertaining to Meathead
11 Movers or any affiliated entity pertaining to allegations of age
discrimination from January 1, 2016 to the date of this request.

12 (2) Copies of all publicly available records on which the EEOC relied in
13 initiating an investigation into Meathead Movers or any affiliated entity for
alleged violations of federal law or EEOC regulations based on age
discrimination from January 1, 2016 to January 1, 2018.

14 (3) The total number of investigations undertaken by the U.S. Equal
15 Employment Opportunity Commission (“EEOC”) pertaining to any moving
16 company involving allegations of age discrimination from January 1, 2016
to the date of this request.

17 (4) Copies of all complaints in lawsuits filed by the EEOC based on a
directed investigation from January 1, 2015 through the date of this request.

18 (5) Copies of all complaints in lawsuits filed by the EEOC based on a
19 directed investigation involving allegations of a pattern-or-practice of age
20 discrimination in violation of the Age Discrimination in Employment Act
of 1967 from January 1, 2015 through the date of this request.

21 14. The Request sought expedited production and a fee waiver.

22 15. On March 7, 2025, the EEOC Office of Legal Counsel acknowledged the
23 Request and assigned it the request number, 820-2025-008422 (the “First
24 Acknowledgement”). Attached hereto and incorporated herein, as Exhibit B.

25 16. On April 14, 2025, the Institute submitted a second public records request
26 (the “Second Request”) to the EEOC through its online portal and email. Attached hereto
27 and incorporated herein, as Exhibit C.

28

1 17. The Second Request sought the following documents and records: “Records
2 of communications, including email communications, to or from any official or employee
3 of the U.S. Equal Employment Opportunity Commission concerning Meathead Movers or
4 its owner or employees, and any of the following individuals: Lance Clauson, Lacey
5 Clauson, Julie Steinberg, or Darrell Steinberg.”

6 18. This Second Request sought expedited production and a fee waiver.

7 19. On April 17, 2025, the EEOC Office of Legal Counsel acknowledged the
8 Second Request and determined that because the Second Request involved a matter related
9 to the First Request, aggregation was considered appropriate under 29 C.F.R.
10 §§ 1610.9(e), 1610.15(h) (“Second Acknowledgement”). The EEOC closed request
11 number 820-2025-008422 and assigned the request number 820-2025-010462 for the
12 aggregated request. The Second Acknowledgement is attached hereto and incorporated
13 herein, as Exhibit D.

14 20. Under the aggregated request the Institute requested six separate items:

15 1. The total number of complaints submitted to the U.S. Equal
16 Employment Opportunity Commission (“EEOC”) pertaining to Meathead
17 Movers or any affiliated entity pertaining to allegations of age
discrimination from January 1, 2016 to the date of this request.

18 2. Copies of all publicly available records on which the EEOC relied in
19 initiating an investigation into Meathead Movers or any affiliated entity for
alleged violations of federal law or EEOC regulations based on age
discrimination from January 1, 2016 to January 1, 2018.

20 3. The total number of investigations undertaken by the U.S. Equal
21 Employment Opportunity Commission (“EEOC”) pertaining to any moving
22 company involving allegations of age discrimination from January 1, 2016
to the date of this request.

23 4. Copies of all complaints in lawsuits filed by the EEOC based on a
directed investigation from January 1, 2015 through the date of this request.

24 5. Copies of all complaints in lawsuits filed by the EEOC based on a
25 directed investigation involving allegations of a pattern-or-practice of age
discrimination in violation of the Age Discrimination in Employment Act
26 of 1967 from January 1, 2015 through the date of this request.

27 6. Records of communications, including email communications, to or
28 from any official or employee of the U.S. Equal Employment Opportunity
Commission concerning Meathead Movers or its owner or employees, and

1 any of the following individuals: Lance Clauson, Lacey Clauson, Julie
2 Steinberg, or Darrell Steinberg

3 *Id.* at 2.

4 21. This Second Acknowledgement denied requests one, two, and three,
5 claiming FOIA exemptions (b)3(A)(i) and (b)7(C). The Second Acknowledgement
6 explained that Sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964
7 required that the information be withheld under Exemption (b)3(A)(i) because “you have
8 not indicated that you represent a party to any charge(s)” and that Exemption (b)7(C)
9 applied “because you have not indicated that you represent a party to any charge(s)” and
10 “[d]isclosure to a third-party such as yourself could reasonably be expected to constitute
11 a clearly unwarranted invasion of personal privacy.” *Id.* at 3.

12 22. The Second Acknowledgement explained that items 4, 5, and 6 remained
13 open and stated that “EEOC will make every effort to issue a determination on your
14 request on or before May 28, 2025” and invoked 5 U.S.C. § 552(a)(6)(B) to assert unusual
15 circumstances and provided notice that the time to respond to the request was being
16 extended by ten working days which was inclusive of the May 28, 2025 deadline. *Id.* at 4.

17 23. The Second Acknowledgement also denied the Institute’s fee waiver request
18 and placed the Institute’s request “on hold while our office determines what fees, if any,
19 must be assessed before processing your request can commence.” *Id.* at 5.

20 24. On June 2, 2025, after receiving no response by the agency’s deadline, the
21 Institute appealed (“Administrative Appeal”) the denial of items one, two, and three of the
22 Request as improperly denied, and items four, five, and six as improperly withheld beyond
23 the statutory time period for production. The Administrative Appeal is attached hereto and
24 incorporated herein, as Exhibit E.

25 25. In its Administrative Appeal, the Institute sought to compel the disclosure
26 of the items requested because they were either improperly denied or because the EEOC
27 failed to respond within the statutory deadline. *Id.* at 1.

28 26. In its Administrative Appeal the Institute asserted: (1) that Exemption
(b)3(A)(i) and Exception (b)7(C) were wrongly applied to the items one, two, and three

1 of the Institute's aggregated request; (2) that there was no valid reason for going beyond
2 the statutory timeframe for responding to items four, five, and six of the Institute's request;
3 and (3) that the EEOC erred in denying the institute's fee waiver request. *Id.*

4 27. On June 13, 2025, the EEOC's Office of Legal Counsel sent a notice ("Fee
5 Notice") informing the Institute that fees were required to move forward on items four
6 and five of the Institute's request. The Fee Notice is attached hereto and incorporated
7 herein, as Exhibit F.

8 28. The Fee Notice required the Institute to pay Two Hundred Eighty-Six
9 Dollars (\$286.00) to proceed with items four and five of the Institute's request. *Id.* at 1.

10 29. The Fee Notice made no mention of item six of the Institute's request. *Id.*

11 30. The Institute paid the Two Hundred Eighty-Six Dollars (\$286.00) to the
12 EEOC. As such, items four and five are still pending, but have not been produced as of
13 the date this matter was filed.

14 31. On June 30, 2025, the EEOC's Office of Legal Counsel transmitted its
15 determination of the Institute's Appeal ("Appeal Determination"), assigned FOIA Appeal
16 No: 820-2025-000689A, for FOIA No. 820-2025-010462, denying the Institute's Appeal.
17 The Appeal Determination is attached hereto and incorporated herein, as Exhibit G.

18 32. The Appeal Determination affirmed the denial of items one and two of the
19 Institute's Request under Exemption (b)3(A)(i) and Exemption (b)7(C). *Id.*

20 33. The Appeal Determination changed the denial of item three and denied the
21 request "because the Commission does not have industry level data responsive to this
22 request." *Id.* at 5.

23 34. The Appeal Determination made no mention of item six of the Institute's
24 request, *id.* even though the Institute specifically appealed the failure to reply within the
25 statutory timeframe with respect to item six of the Institute's request. *See* Exhibit E.

26 35. The EEOC has violated the FOIA by improperly invoking exemptions to
27 disclosure for items 1 and 2, failing to perform an adequate search for item 3, and for
28 failing to provide responsive records within the statutory deadline for item 6.

COUNT 1
Failure to Respond within the Statutory Time Period
(5 U.S.C. § 552(a)(6)(A), (B)))

36. Plaintiff re-alleges and incorporates each and every allegation contained in paragraphs 1–35 of this Complaint as if fully set forth herein.

37. An agency response is due within 20 business days after a public records request is made. 5 U.S.C. § 552(a)(6)(A)(i); 34 C.F.R. § 5.21(c).

38. An agency’s response must notify the requester of the agency’s determination, and whether the agency will comply with the request. *Id.*

39. Failure to comply with the time limits constitutes exhaustion of the requester’s administrative remedies for purposes of judicial action to compel disclosure. 5 U.S.C. § 552(a)(6)(C); 34 C.F.R. § 5.21(c). *See also Harjo v. U.S. Citizenship & Immigr. Servs.*, 811 F.3d 1086, 1092 (9th Cir. 2016) (when an agency fails to give a determination within the statutory timeframe, the requester can proceed directly to district court)

40. The EEOC’s response to item six of the Institute’s request was due 30 business days after the EEOC’s Second Acknowledgment, accounting for the extra ten working days for unusual circumstances under 5 U.S.C. § 552(a)(6)(B).

41. The EEOC sent its Second Acknowledgment –which served as the first time the EEOC acknowledged item six on April 17, 2025.

42. In the Second Acknowledgment, the EEOC did not state whether a determination had been made regarding item six, instead stating that a determination would be made by May 28, 2025.

43. The statutory deadline to respond to item six of the Request was May 28, 2025.

44. The EEOC did not respond to item six of the Request and the EEOC has not provided responsive records for item six of the Request.

1 55. FOIA Exemptions (b)(3)(A)(i) and (b)(7)(C) were not narrowly construed by
2 the EEOC.

3 **Exemption (b)(3)(A)(i)**

4 56. Exemption (b)(3)(A)(i) allows agencies to withhold records that another
5 statute requires “be withheld from the public in such a manner as to leave no discretion
6 on the issue.” 5 U.S.C. § 552(b)(3)(A)(i).

7 57. The EEOC asserts that 42 U.S.C. § 2000e-5(b) prohibits disclosure of
8 items one and two of the Request.

9 58. Under 42 U.S.C. § 2000e-5(b), “[c]harges shall not be made public by the
10 Commission ... Nothing said or done during and as a part of such informal endeavors
11 may be made public by the Commission, its officers or employees.”

12 59. 42 U.S.C. § 2000e-5(b) only applies to information gathered during
13 informal endeavors to resolve the claim, like conference, conciliation, and persuasion.
14 *See EEOC v. Philip Servs. Corp.*, 635 F.3d 164, 165 (5th Cir. 2011); *EEOC v. UMB*
15 *Bank Fin. Corp.*, 558 F.3d 784, 789 (8th Cir. 2009).

16 60. The total number of investigations has no relation to any informal
17 endeavors to settle a matter.

18 61. The EEOC also asserts that 42 U.S.C. § 2000e-5(b) prohibits disclosure of
19 items one and two of the Request.

20 62. 42 U.S.C. § 2000e-5(b) does not bar the disclosure of the records sought
21 under items one and two of the Request because the requested records do not involve
22 records pertaining to the resolution of claims.

23 63. Under 42 U.S.C. § 2000e-8(e), “[i]t shall be unlawful for any officer of the
24 Commission to make public in any manner whatever any information obtained by the
25 Commission pursuant to its authority under this section prior to the institution of any
26 proceeding under this subchapter involving such information.” 42 U.S.C. § 2000e-8(e)
27 only prohibits the disclosure of information obtained by the EEOC *before* any legal
28 proceedings have been initiated.

1 64. Proceedings against Meathead Movers are already underway.

2 65. Because the EEOC already initiated public proceedings, 42 U.S.C.
3 § 2000e-8(e) is inapplicable.

4 66. What's more, 42 U.S.C. § 2000e-8(e) does not bar the disclosure of
5 information pertaining to the aggregate number of complaints.

6 67. The purpose of both 42 U.S.C. § 2000e-8(e) and 42 U.S.C. § 2000e-5(b)
7 “was to prevent wide or unauthorized dissemination of unproved charges.” *EEOC v.*
8 *Associated Dry Good Co.*, 449 U.S. 590, 599 (1981).

9 68. That concern is not implicated here because the information requested in
10 items one and two of the Request would not identify any individuals or entities under
11 investigation, nor would its disclosure publicize unproven allegations.

12 69. The records were not properly withheld under Exemption (b)3(A)(1).

13 **Exemption (b)(7)(C)**

14 70. Exemption (b)(7)(C) applies to “records or information compiled for law
15 enforcement purposes, but only to the extent that the production of such law
16 enforcement records or information ... (C) could reasonably be expected to constitute an
17 unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C).

18 71. In applying this Exemption, the EEOC asserted that the “[r]elease of
19 statements and identities of witnesses and subjects of an investigation creates the
20 potential for witness intimidation that could deter their cooperation” and that the
21 “[d]isclosure of identities of employee-witness could cause ‘problems at their jobs and
22 with their livelihoods.’” Exhibit D at 3 (citation omitted).

23 72. In items one and two of the Request, the Institute does not seek statements
24 or identities of witnesses; instead, the Institute seeks only raw numbers or information
25 already publicly available.

26 73. A disclosure impacts a privacy interest under Exemption (b)7(C) only “if it
27 affects ‘the individual’s control of information concerning his or her person,’ or involves
28

1 the ‘disclosure of records containing personal details about private citizens.’” *Tuffly v.*
2 *U.S. Dep’t of Homeland Sec.*, 870 F.3d 1086, 1093 (9th Cir. 2017) (citation omitted).

3 74. It is only those “[d]isclosures that would subject individuals to possible
4 embarrassment, harassment, or the risk of mistreatment [that] constitute nontrivial
5 intrusions into privacy.” *Id.* (citation omitted).

6 75. Items one and two of the request do not seek any personally identifiable
7 information because those requests are only for aggregate data that does not include
8 personal or private information.

9 76. The records were not properly withheld under Exemption (b)7(C).

10 77. There is no interest protected by Exemptions (b)3(A)(i) and (b)7(C) that
11 would be harmed by disclosure. 5 U.S.C. § 552(a)(8)(A).

12 78. The EEOC’s failure to release the information requested by the Institute
13 violates the FOIA, 5 U.S.C. § 552(a)(3), 5 U.S.C. § 552(a)(6), and the EEOC’s
14 corresponding regulations.

15 **COUNT III**
16 **Inadequate Search under the FOIA**

17 79. Plaintiff re-alleges and incorporates each and every allegation contained in
18 paragraphs 1–78 of this Complaint as if fully set forth herein.

19 80. The EEOC did not produce records responsive to item three of the Request
20 “because the Commission does not have industry level data responsive to this request.”
21 Exhibit G at 5.

22 81. The FOIA requires an agency responding to a request to “demonstrate that
23 it has conducted a search reasonably calculated to uncover all relevant documents.”
24 *Zemansky v. EPA*, 767 F.2d 569, 571 (9th Cir. 1985) (citation modified).

25 82. Item three of the Request seeks information pertaining to the total number
26 of investigations the EEOC has conducted of moving companies for alleged age
27 discrimination.
28

- 1 F. Enter a finding that personnel employed by Defendant acted arbitrarily and
2 capriciously in withholding public records from Plaintiff as provided in 5
3 U.S.C. § 552(a)(4)(F);
- 4 G. Award Plaintiff costs and reasonable attorneys' fees in this action, as
5 provided in 5 U.S.C. § 552(a)(4)(E); and
- 6 H. Grant such other and further relief as this Court may deem just and proper

7
8 **RESPECTFULLY SUBMITTED** this 16th day of July 2025 by:

9 /s/ Jonathan Riches

Jonathan Riches (0257120)

10 **Scharf-Norton Center for Constitutional Litigation**
11 **at the GOLDWATER INSTITUTE**

12 *Attorneys for Plaintiff*
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March 7, 2025

Thomas Profit
Los Angeles District Office
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
losafoia@eeoc.gov

Re: Freedom of Information Act Request Regarding Meathead Movers

On behalf of the Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute (the “**Goldwater Institute**”) and pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, this correspondence is a request for records, regardless of format, medium or physical characteristics.

Specifically, we seek the following documents and records:

- (1) The total number of complaints submitted to the U.S. Equal Employment Opportunity Commission (“EEOC”) pertaining to Meathead Movers or any affiliated entity pertaining to allegations of age discrimination from January 1, 2016 to the date of this request.**
- (2) Copies of all publicly available records on which the EEOC relied in initiating an investigation into Meathead Movers or any affiliated entity for alleged violations of federal law or EEOC regulations based on age discrimination from January 1, 2016 to January 1, 2018.**
- (3) The total number of investigations undertaken by the U.S. Equal Employment Opportunity Commission (“EEOC”) pertaining to any moving company involving allegations of age discrimination from January 1, 2016 to the date of this request.**
- (4) Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation from January 1, 2015 through the date of this request.**
- (5) Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation involving allegations of a pattern-or-practice of age discrimination in violation of the Age Discrimination in Employment Act of 1967 from January 1, 2015 through the date of this request.**

Exhibit A

Thomas Profit
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Electronic production of records and information is acceptable. If the records are produced electronically, please include all associated metadata. If you refer me to a website containing responsive records, please specify the precise web address where they may be found.

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), we request a waiver of all fees associated with processing this FOIA request. The statute provides that documents shall be furnished without charge, or at a reduced charge, when 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 and is not primarily in the commercial interest of the requester.

The Goldwater Institute is a 501(c)(3) nonprofit organization dedicated to conducting research and analysis on pressing constitutional and public policy issues that have nationwide impact. A core part of our mission is advocating for government transparency and accountability, including through a robust public records project. We regularly submit public records requests to federal, state, and local government officials to shed light on governmental actions, particularly as they relate to economic liberty and individual rights.

The requested records are likely to contribute significantly to public understanding of government operations and decision-making processes. Through our research, analysis, and publication of findings, we educate policymakers, journalists, and the general public on issues that impact individual rights and economic freedom. Our work is frequently covered in national, state, and local media, ensuring broad public dissemination of government information obtained through FOIA requests.

The Goldwater Institute is a nonprofit entity that does not seek public records for commercial purposes. We do not charge for access to the information we obtain through public records requests. Instead, we use these records to conduct research, publish reports, and engage in public education efforts that help Americans understand government operations, including when businesses seek to earn a living free from arbitrary government overreach.

Because our request satisfies both prongs of the fee waiver test—contributing significantly to public understanding of government operations and lacking a commercial purpose—we respectfully request that all fees be waived for processing this FOIA request.

Should our request for a waiver be denied, we are willing to pay fees for this request up to two hundred dollars (\$200.00). If you estimate that fees will exceed this amount, please inform me first.

I request your response within the statutory timeframe of twenty (20) business days. If you are unable to complete the request within that time, please contact me with your progress and expected completion date.

Please mail responsive records to the mailed address above or e-mail address below.

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If you deny access to any of the above public records, please provide forthwith a written statement of the express grounds for the denial, citing the law or regulation under which access is denied.

If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at 602-462-5000 or ashelton@goldwaterinstitute.org.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Shelton", with a stylized flourish at the end.

Adam Shelton
Staff Attorney
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Legal Counsel**

131 M St, N. E., Fifth Floor
Washington, D. C. 20507
Free: (877)-869-1802
TTY (844) 234-5122
FAX (202) 827-7545
Website: www.eeoc.gov

03/07/2025

Dear Catherine Ryland,

Your request has been delivered to the U.S. Equal Employment Opportunity Commission. The request has been assigned tracking # 820-2025-008422, please log into your account and review your submission.

The application address is <https://eeoc.arkcase.com/foia/portal/>

Thank you,

U.S. Equal Employment Opportunity Commission


Notice of Confidentiality: The information contained in this transmission may contain privileged and confidential information, including information protected by federal and state privacy laws. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution, or duplication of this communication is strictly prohibited and may be unlawful. If you are not the intended recipient, please contact us at foia@eeoc.gov  and destroy all copies of the original message and attachments.

Exhibit B



April 14, 2025

Thomas Profit
Los Angeles District Office
255 E. Temple Street, 4th Floor
Los Angeles, CA 90012
losafoia@eeoc.gov

Re: Freedom of Information Act Request Regarding Meathead Movers

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Specifically, we seek the following documents and records:

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Electronic production of records and information is acceptable. If the records are produced electronically, please include all associated metadata. If you refer me to a website containing responsive records, please specify the precise web address where they may be found.

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), we request a waiver of all fees associated with processing this FOIA request. The statute provides that documents shall be furnished without charge, or at a reduced charge, when 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 and is not primarily in the commercial interest of the requester.

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The requested records are likely to contribute significantly to public understanding of government operations and decision-making processes. Through our research, analysis, and

Thomas Profit
Page 2 of 2

publication of findings, we educate policymakers, journalists, and the general public on issues that impact individual rights and economic freedom. Our work is frequently covered in national, state, and local media, ensuring broad public dissemination of government information obtained through FOIA requests.

The Goldwater Institute is a nonprofit entity that does not seek public records for commercial purposes. We do not charge for access to the information we obtain through public records requests. Instead, we use these records to conduct research, publish reports, and engage in public education efforts that help Americans understand government operations, including when businesses seek to earn a living free from arbitrary government overreach.

Because our request satisfies both prongs of the fee waiver test—contributing significantly to public understanding of government operations and lacking a commercial purpose—we respectfully request that all fees be waived for processing this FOIA request.

Should our request for a waiver be denied, we are willing to pay fees for this request up to two hundred dollars (\$200.00). If you estimate that fees will exceed this amount, please inform me first.

I request your response within the statutory timeframe of twenty (20) business days. If you are unable to complete the request within that time, please contact me with your progress and expected completion date.

Please mail responsive records to the mailed address above or e-mail address below.

If you deny access to any of the above public records, please provide forthwith a written statement of the express grounds for the denial, citing the law or regulation under which access is denied.

If you have any questions about this request or foresee any problems in fully releasing the requested records please contact me as soon as possible, I can be reached at 602-462-5000 or ashelton@goldwaterinstitute.org.

Thank you for your prompt attention to this request.

Sincerely,



Adam Shelton
Staff Attorney
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Legal Counsel**

131 M St, N. E., Fifth Floor
Washington, D. C. 20507
Free: (833) 827-2920
TTY: (844) 234-5122
FAX: (202) 827-7545
Website: www.eeoc.gov

April 17, 2025

VIA: cryland@goldwaterinstitute.org

Catherine Ryland
GOLDWATER INSTITUTE
500 E Coronado St.
Phoenix, AZ 85004

Re: FOIA Nos.: **820-2025-010462 & 820-2025-008422**

As you know, on March 7, 2025, you submitted the following FREEDOM OF INFORMATION ACT (FOIA) request to the EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC or Commission):

1. The total number of complaints submitted to the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to Meathead Movers or any affiliated entity pertaining to allegations of age discrimination from January 1, 2016 to the date of this request.
2. Copies of all publicly available records on which the EEOC relied in initiating an investigation into Meathead Movers or any affiliated entity for alleged violations of federal law or EEOC regulations based on age discrimination from January 1, 2016 to January 1, 2018.
3. The total number of investigations undertaken by the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to any moving company involving allegations of age discrimination from January 1, 2016 to the date of this request.
4. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation from January 1, 2015 through the date of this request.
5. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation involving allegations of a pattern-or-practice of age discrimination in violation of the Age Discrimination in Employment Act of 1967 from January 1, 2015 through the date of this request.

As you know, our office acknowledged receipt of this request on April 2, 2025, and assigned it control number 820-2025-008422.

On April 14, 2025, you submitted the following related request:

Specifically, we seek the following documents and records:

Records of communications, including email communications, to or from any official or employee of the U.S. Equal Employment Opportunity Commission concerning Meathead Movers or its owner or employees, and any of the following individuals: Lance Clauson, Lacey Clauson, Julie Steinberg, or Darrell Steinberg.

This request has been assigned control number 820-2025-010462, is assigned to the "Complex" track, and will be processed by Michael Heise who can be reached at (202) 921-2681.

Since the above requests involve clearly related matters (MEATHEAD MOVERS or its staff), aggregation is appropriate. See 29 C.F.R. §§ 1610.9(e), 1610.15(h).

Therefore, our office has closed request number 820-2025-008422 and subsumed the substance of that request into 820-2025-010462 which remains open. Responses concerning 820-2025-008422 will be transmitted by and through 820-2025-010462.

Exhibit D

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Your aggregated request reads as follows:

1. The total number of complaints submitted to the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to Meathead Movers or any affiliated entity pertaining to allegations of age discrimination from January 1, 2016 to the date of this request.
2. Copies of all publicly available records on which the EEOC relied in initiating an investigation into Meathead Movers or any affiliated entity for alleged violations of federal law or EEOC regulations based on age discrimination from January 1, 2016 to January 1, 2018.
3. The total number of investigations undertaken by the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to any moving company involving allegations of age discrimination from January 1, 2016 to the date of this request.
4. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation from January 1, 2015 through the date of this request.
5. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation involving allegations of a pattern-or-practice of age discrimination in violation of the Age Discrimination in Employment Act of 1967 from January 1, 2015 through the date of this request.
6. Records of communications, including email communications, to or from any official or employee of the U.S. Equal Employment Opportunity Commission concerning Meathead Movers or its owner or employees, and any of the following individuals: Lance Clauson, Lacey Clauson, Julie Steinberg, or Darrell Steinberg.

Items 1, 2, and 3 of the above-referenced aggregated request are fully denied under FOIA Exemptions (b)(3)(A)(i) and (b)(7)(C).

Exemption (b)(3)(A)(i) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3)(A)(i) (2006), amended by OPEN FOIA Act of 2009, Pub. L. No. 111-83, 123 Stat. 2142, 2184, states that disclosure is not required for a matter specifically exempted from disclosure by statute if that statute:

(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue[.]

Sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(b), 2000e-8(e)(1982), are part of such a statute. Section 706(b) provides that:

Charges shall not be made public by the Commission Nothing said or done during and as a part of [the Commission's informal endeavors at resolving charges of discrimination] may be made public

Section 709(e) of Title VII provides:

It shall be unlawful for any officer of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section [to investigate charges of discrimination and to require employers to maintain and submit records] prior to the institution of any proceeding under this title involving such information.

Section 107 of the Americans with Disabilities Act (ADA) and § 207 of the Genetic Information Nondiscrimination Act adopt the procedures of sections 706 and 709 of Title VII. *See EEOC v. Associated Dry Goods Co.*, 449 U.S. 590 (1981); *Frito-Lay v. EEOC*, 964 F. Supp. 236, 239-43 (W.D. Ky. 1997); *American Centennial Insurance Co. v. EEOC*, 722 F. Supp. 180 (D.N.J. 1989); and *EEOC v. City of Milwaukee*, 54 F. Supp. 2d 885, 893 (E.D. Wis. 1999).

INFORMATION WITHHELD PURSUANT TO THE THIRD EXEMPTION TO THE FOIA:

- **Any records related to charge(s) of discrimination against MEATHEAD MOVERS specifically (items 1 and 2 of your request) or moving companies generally (item 3 of your request). The Commission can neither confirm or deny the existence of any Title VII, ADA, and/or GINA**

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charges pertaining to this entity because you have not indicated that you represent a party to any charge(s).

Exemption (b)(7)(C) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(7)(C) (2006), amended by OPEN Government Act of 2007. Pub. L. No. 110-175, 121 Stat. 2524, authorizes the Commission to withhold:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy . . .

The seventh exemption applies to civil and criminal investigations conducted by regulatory agencies. *Abraham & Rose, P.L.C. v. United States*, 138 F.3d 1075, 1083 (6th Cir. 1998). Release of statements and identities of witnesses and subjects of an investigation creates the potential for witness intimidation that could deter their cooperation. *National Labor Relations Board v. Robbins Tire and Rubber Co.*, 437 U.S. 214, 239 (1978); *Manna v. United States Dept. of Justice*, 51 F.3d 1158, 1164 (3d Cir. 1995). Disclosure of identities of employee-witnesses could cause "problems at their jobs and with their livelihoods." *L&C Marine Transport, Ltd. v. United States*, 740 F.2d 919, 923 (11th Cir. 1984).

The Supreme Court has explained that only "official information that sheds light on an agency's performance of its statutory duties" merits disclosure under FOIA and noted that "disclosure of information about private citizens that is accumulated in various governmental files" would "reveal little or nothing about an agency's own conduct." *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989).

- **Access to charge files, or records related to charge(s) of discrimination against MEATHEAD MOVERS specifically (items 1 and 2 of your request) or moving companies generally (item 3 of your request). The Commission can neither confirm or deny the existence of any Title VII, ADA, and/or GINA charges pertaining to this entity because you have not indicated that you represent a party to any charge(s). Disclosure to a third-party such as yourself could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy.**

Items 4, 5, and 6 remain open. Your justification¹ for a waiver of fees is, in relevant part:

The Goldwater Institute is a 501(c)(3) nonprofit organization dedicated to conducting research and analysis on pressing constitutional and public policy issues that have nationwide impact. A core part of our mission is advocating for government transparency and accountability, including through a robust public records project. We regularly submit public records requests to federal, state, and local government officials to shed light on governmental actions, particularly as they relate to economic liberty and individual rights.

The requested records are likely to contribute significantly to public understanding of government operations and decision-making processes. Through our research, analysis, and publication of findings, we educate policymakers, journalists, and the general public on issues that impact individual rights and economic freedom. Our work is frequently covered in national, state, and local media, ensuring broad public dissemination of government information obtained through FOIA requests.

The Goldwater Institute is a nonprofit entity that does not seek public records for commercial purposes. We do not charge for access to the information we obtain through public records requests. Instead, we use these records to conduct research, publish reports, and engage in public education efforts that help Americans understand government operations, including when businesses seek to earn a living free from arbitrary government overreach.

¹ Your fee waiver justification for each FOIA request is identical.

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Before our office may grant a fee waiver, the requester must provide a justification sufficient to show the following:

- Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated;² and
- Disclosure of the requested information would be likely to contribute significantly to public understanding of those operations or activities;³ and
- The disclosure must not be primarily in the commercial interest of the requester.⁴

Courts have held that fee waiver requests must be considered on a case-by-case basis.⁵ Requesters should address the statutory fee waiver requirements in sufficient detail for agencies to make an informed decision as to whether it can appropriately waive or reduce the fees in question.⁶ Your fee waiver justification fails to address the statutory fee waiver requirements in sufficient detail; rather, it is conclusory and merely restates the statutory language. For example, you provide no information showing how disclosure of records concerning a particular company (MEATHEAD MOVERS) or moving companies in general would “shed light on government actions, particular as they related to economic liberty and individual rights.” You also fail to articulate how disclosure of investigatory records, if any, about a particular moving company or all moving companies would “help Americans understand government operations, including when businesses seek to earn a living free from arbitrary government overreach.” Thus, your fee waiver request is denied.

With respect to items 4, 5, and 6 of the aggregated request, EEOC will make every effort to issue a determination on your request on or before May 28, 2025. FOIA and EEOC regulations, at 29 C.F.R. § 1610.9(d), provide 20 working days to issue a determination on a request, not including Saturdays, Sundays and federal holidays. As provided in 5 U.S.C. § 552(a)(6)(B) (2016), due to unusual circumstances we hereby provide you with the required written notice that we are extending by ten (10) working days the time in which we shall respond based upon:

- the need to search for and collect the requested records, if any exist, from field offices or other establishments that are separate from this office,
- the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request, or
- the need for consultation with another agency, or two or more components of this agency, having a substantial interest in the determination of the request.

The FOIA provides for three categories of requesters: 1) commercial use requesters; 2) educational institutions, noncommercial scientific institutions, and representatives of the news media; and finally, 3) all requesters who do not fall within either of the preceding two categories.⁷ Our office has characterized you

² 29 C.F.R. § 1610.15(k)(2)(i).

³ 29 C.F.R. § 1610.15(k)(2)(ii).

⁴ 29 C.F.R. § 1610.15(k)(2)(iii).

⁵ <https://www.justice.gov/oip/page/file/1206606/dl?inline#page=21> at 22 (citing *Cause of Action v. FTC*, 799 F.3d 1108, 1121 (D.C. Cir. 2015) (“Such a case-by-case approach is correct for the public-interest waiver test, which requires that the ‘disclosure of the [requested] information’ be in the public interest.” (quoting 5 U.S.C. § 552(a)(4)(A)(iii))); *Media Access Project v. FCC*, 883 F.2d 1063, 1065 (D.C. Cir. 1989) (remarking that any requester may seek waiver of assessed fees on “case-by-case” basis); *Nat’l Sec. Archive v. DOD*, 880 F.2d 1381, 1383 (D.C. Cir. 1989) (dictum) (noting that statute provides for fee waivers on “case-by-case” basis)).

⁶ See, e.g., *Nat’l Sec. Couns. v. DOJ*, 848 F.3d 467, 473 (D.C. Cir. 2017) (finding that “[w]hile fee-waiver applications are to be ‘liberally construed’ in favor of finding that requesters meet FOIA’s two-prong test, requesters still must justify their entitlement to a waiver of fees in ‘reasonably specific’ and ‘non-conclusory’ terms”) (citations omitted); *Jud. Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (reiterating that requests for fee waivers “must be made with reasonable specificity . . . and based on more than conclusory allegations”) (quotation marks and internal citations omitted).

⁷ FOIA Guide, 2013 WL 5297274 at *1-2 (citing 5 U.S.C. § 552(a)(4)(A)(ii)(I)-(III) (2006 & Supp. IV 2010)). See also <https://www.justice.gov/oip/page/file/1206606/dl?inline#page=2> (citing 5 U.S.C. § 552(a)(4)(A)(ii)(I)-(III) (2018)).

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as an "Other" requester for the purpose of processing this FOIA request. As such, you are entitled to two (2) hours of free search time.⁸ According to Commission regulations:

Search is the process of looking for and retrieving records or information responsive to a request. Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.⁹

Your request has been placed on hold while our office determines what fees, if any, must be assessed before processing your request can commence.

You may contact the EEOC FOIA Public Liaison Michael L. Heise for further assistance or to discuss any aspect of your request. In addition, you may contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer.

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free 1-877-684-6448.

The contact information for the FOIA Public Liaison is as follows: Michael L. Heise, EEOC FOIA Public Liaison, Office of Legal Counsel, FOIA Division, Equal Employment Opportunity Commission, 131 M. Street, N.E., Fifth Floor, Washington, D.C. 20507, email to FOIA@eeoc.gov, telephone at (202) 921-2542; or fax at (202) 827-7545.

If you are not satisfied with the response to this request, you may administratively appeal in writing. Your appeal must be postmarked or electronically transmitted in 90 days from receipt of this letter to the Office of Legal Counsel, FOIA Division, Equal Employment Opportunity Commission, 131 M Street, NE, 5NW02E, Washington, D.C. 20507, email to FOIA@eeoc.gov; online at <https://eeoc.arkcase.com/foia/portal/login>, or fax at (202) 827-7545. Your appeal will be governed by 29 C.F.R. § 1610.11.

Sincerely,



Michael L. Heise
Assistant Legal Counsel | FOIA Division
FOIA@eeoc.gov

⁸ 29 C.F.R. § 1610.15(d)(4)(ii) ("Except for requesters seeking records for a commercial use, the Commission must provide without charge [t]he first two hours of search.").

⁹ 29 C.F.R. § 1610.15(b)(8).



SENT VIA E-MAIL

Office of Legal Counsel
FOIA Division
Equal Employment Opportunity Commission
131 M Street, NE, 5NW02E
Washington, D.C. 20507
FOIA@eeoc.gov
ATTN: FOIA Appeals Office

Re: Freedom of Information Act Request Regarding Meathead Movers
Appeal No. 820-2025-010462

Dear FOIA Appeals Office:

The Goldwater Institute (“Institute”) submits this appeal of the Equal Employment Opportunity Commission’s (“EEOC”) denial of the Institute’s public records requests sent on March 7, 2025, and April 14, 2025. The EEOC combined the Institute’s Requests on April 17, 2025, under the combined control number 820-2025-010462.

Background

The Institute submitted a public records request to the EEOC on March 7, 2025. (Exhibit 1). There were five separate requests contained within Request 1. On March 7, 2025, the Institute received a response from the EEOC acknowledging the request and assigning the tracking number 820-2025-008422 (“First Acknowledgment”). (Exhibit 2).

On April 14, 2025, the Institute sent another public records request to the EEOC containing one additional request. (Exhibit 3). On April 17, 2025, (“Second Acknowledgment”), the EEOC acknowledged this second request, aggregated the two requests assigning both to tracking number 820-2025-008422, and denied items one, two, and three. (Exhibit 4). The Second Acknowledgment left open items four, five, and six and invoked 5 U.S.C. § 552(a)(6)(B) (2016) to extend the time in which to respond by ten working days due to unusual circumstances. This Second Acknowledgment gave the deadline on May 28, 2025, to respond to the remaining open items. Though the Institute calculates the appropriate deadline as May 27, 2025.

The Institute now submits this appeal to compel the disclosure items requested either because they were improperly denied or because the EEOC failed to respond in a timely manner.

Legal Argument

1. The EEOC erred in applying Exemption 3 to items one, two, and three of the Institute's Requests.

Under Exemption 3, subpart (A)(i), an agency is not required to disclose information that another statute requires “be withheld from the public in such a manner as to leave no discretion on the issue.” 5 U.S.C. § 552(b)(3)(A)(i). The EEOC points to two statutes that it asserts leave it no discretion in denying items one, two, and three of the Institute's Requests. First, the EEOC cites 42 U.S.C. § 2000e-5(b) which states “[c]harges shall not be made public by the commission . . . Nothing said or done during and as a part of such **informal endeavors** may be made public by the Commission, its officers or employees.” (emphasis added). Second, the EEOC cites 42 U.S.C. § 2000e-8(e) which states “[t] shall be unlawful for any officer of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section **prior to the institution of any proceeding under this title involving such information.**” (emphasis added). Both are inapplicable.

Item one requests only the **total number** of complaints submitted to the EEOC pertaining to Meathead Movers related to age discrimination from January 1, 2016, to the date of the request. Item three requests only the **total number** of investigations undertaken by the EEOC pertaining to any moving company involving allegations of age discrimination during the same time period. So, no information obtained by the Commission pursuant to its investigative authority is being sought by these requests. Nor do the requests require the EEOC to make known any specific charges, as each request seeks only the raw number of charges or investigations. 42 U.S.C. § 2000e-5(b), when read in its full context, clearly refers to specific charges that would be identifiable, which is simply not the case here.

Confirming the inapplicability of 42 U.S.C. § 2000e-5(b) to items one and three is the plain language of the statute. Under it, “nothing said or done during such informal endeavors” may be made public. But what does “informal endeavors” refer to? The informal methods of conference, conciliation, and persuasion. *See* 42 U.S.C. § 200e-5(b); *see also E.E.O.C. v. Philip Services Corp.*, 635 F.3d 164, 165 (5th Cir. 2011); *E.E.O.C. v. UMB Bank Financial Corp.*, 558 F.3d 784, 789 (8th Cir. 2009). The raw number of investigations has absolutely nothing to do with any informal endeavors to settle a matter.

As to item two, it requests all **publicly** available records on which the EEOC relied in initiating investigation into Meathead Movers or any affiliated entity for alleged violations of federal law or EEOC regulations based on age discrimination from January 1, 2016, to January 1, 2018. The Institute is not seeking any nonpublic information through item two which would make both Section 2000e-5(b) and 2000e-8(e) inapplicable to this item because both are aimed at preventing the public disclosure of private information not the public disclosure of already public information.

Additionally, 42 U.S.C. § 2000e-8(e) does not apply for an even more fundamental reason: the statute prohibits the disclosure of information obtained by the EEOC *before* any legal proceedings have been initiated. But here, proceedings are already underway. In fact, the EEOC itself took steps to affirmatively publicize the charges brought against Meathead movers. *See California EEOC Sues Meathead Movers For Age Discrimination*, 2023 WL 6366983 (Sep. 29, 2023). Having initiated litigation and publicly broadcasted its allegations, the EEOC cannot now invoke a statute that shield only pre-litigation investigative materials. That FOIA exemption simply does not apply once the EEOC has filed suit in federal court and made its claims public.

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Finally, the purpose behind the prohibition on publication “was to prevent wide or unauthorized dissemination of unproved charges.” *EEOC v. Associated Dry Good Co.*, 449 U.S. 590, 599 (1981). That concern is simply not implicated here. The information requested does not identify any individuals or entities under investigation, nor would its disclosure publicize unproven allegations.

It is the EEOC who has brought suit against Meathead Movers in federal court and issued a press release announcing the suit and publicly accusing Meathead Movers of having “failed to recruit and hire applicants over 40 into moving, packing and customer service positions.” See *California EEOC Sues Meathead Movers For Age Discrimination*, 2023 WL 6366983 (Sep. 29, 2023). The agency went further, accusing Meathead Movers of maintaining “a pattern or practice of recruiting and hiring young college students, intentionally excluding older workers regardless of their individual abilities.” *Id.* After making these public pronouncements the EEOC cannot claim the protections of laws intended to prevent the “wide or unauthorized dissemination of unproved charges.” *EEOC v. Associated Dry Good Co.*, 449 U.S. 590, 599 (1981). Especially when the information sought would reveal only raw numbers of investigations or complaints or information that is already publicly available.

Thus, Exemption 3, subpart (A)(i) is inapplicable and does not support the EEOC’s denial of items one, two, and three of the Institute’s Requests.

2. The EEOC erred in applying Exemption 7 subpart C to deny items one, two, and three of the Institute’s Requests.

Under Exemption 7, an agency can withhold “records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(7)(C). The EEOC explained that the “[r]elease of statements and identities of witnesses and subjects of an investigation creates the potential for witness intimidation that could deter their cooperation” and that the “[d]isclosure of identities of employee-witness could cause problems at their jobs and with their livelihoods.” See Exhibit 4. However, it is unclear how this is in any way applicable to items one, two, and three of the Institute’s Requests, which seek no statements or identities of witnesses and seek only raw numbers or information already publicly available.

In denying the Institute’s Requests, the EEOC invoked *United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). (Exhibit 4.). But that reliance is misplaced. The EEOC cited the Court’s explanation that “disclosure of information about private citizens that is accumulated in various governmental files” would “reveal little or nothing about an agency’s own conduct.” *Id.* at 773. But that rationale is irrelevant to the Institute’s Requests. The Institute seeks no information about private citizens. Rather, it seeks only aggregate data about complaints filed against Meathead Movers, the number of similar investigations undertaken by the EEOC, and information that is already publicly available.

Under FOIA, a disclosure impacts a privacy interest under Exemption 7(C) only “if it affects ‘the individual’s control of information concerning his or her person,’ or involves the ‘disclosure of records containing personal details about private citizens.’” *Tuffy v. U.S. Department of Homeland Security*, 870 F.3d 1086, 1093 (9th Cir. 2017) quoting *Reporters Comm.*, 489 U.S. at 763. It is only those “[d]isclosures that would

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subject individuals to possible embarrassment, harassment, or the risk of mistreatment [that] constitute nontrivial intrusions into privacy.” *Tuffy*, 870 F.3d at 1093. But none of those concerns are present here. Items one and three request no personally identifiable information whatsoever.

Item three requests only the total number of investigations undertaken by the EEOC into any moving company that involved alleged age discrimination from January 1, 2016, to the present.

Item one requests simply the total number of complaints submitted to the EEOC alleging Meathead Movers engaged in age discrimination from January 1, 2016, to the present. It does not request any information about the identity of the individuals who may have complained or even the dates of the complaints.

Item two only requests the publicly available documents that the EEOC relied on in initiating their investigation. Because the records by definition are already publicly available and item two simply request copies of those records on which the EEOC relied on launching this investigation that it later made public exemption 7(C) does not apply. To the extent that Exemption 7(C) might reveal personal information about those who complained, that would not warrant the complete withholding, but instead the EEOC would be required to redact the information that would reveal private information.

Thus, Exemption 7(C) is inapplicable and the EEOC erred in using it to deny items one, two, and three of the Institute Requests.

3. The EEOC did not provide a response within the statutory timeline.

An agency response is due within 20 days after a public records request is made. 5 U.S.C. § 552(a)(6)(A)(i); 34 C.F.R. § 5.21(c). The response notifies the requestor of the agency’s determination whether the agency will comply with the request. *Id.* Failure to comply with the time limits constitutes exhaustion of the requester’s administrative remedies for purposes of judicial action to compel disclosure. 34 C.F.R. § 5.21(c). *See also Harjo v. U.S. Citizenship & Immigr. Servs.*, 811 F.3d 1086, 1092 (9th Cir. 2016) (when an agency fails to give a determination within the statutory timeframe, the requester can proceed directly to district court); *Jud. Watch, Inc. v. U.S. Dep’t of Homeland Sec.*, 895 F.3d 770, 775 (D.C. 2018) (exhaustion is excused when the agency fails to make a timely determination).

Here, EEOC’s response—even with the ten-day extension pursuant to 5 U.S.C. § 552(a)(6)(B) due to unusual circumstances—was due on May 27, 2025. The EEOC promised a response by May 28. *Second Acknowledgment*. It is now June 2, 2025, and no further response has been received. As such, the EEOC has not responded to the Request within the statutory timeframe. The Institute has exhausted its remedies and may compel disclosure of the documents in the request.

4. The EEOC erred in denying the Institute’s fee waiver request.

The EEOC denied the Institute’s fee waiver request on the grounds that the Institute was “conclusory” and failed to provide specific information as to how the items requested would “help Americans understand government operations, including when businesses seek to earn a living free from arbitrary government overreach.” Exhibit 4. That rationale is legally flawed. The Institute’s request clearly

FOIA Appeals Office

June 2, 2025

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articulated the public interest in the information sought, and the EEOC's denial reflects an improper attempt to assess the Institute's motives—effectively engaging in viewpoint discrimination prohibited by the First Amendment.

The Institute seeks this information because it has reason to believe that the EEOC's investigation and prosecution of Meathead Movers has not been initiated on the basis of a specific complaint, but rather in retaliation, including for the company's protected speech. If true, such conduct would not only exceed the EEOC's statutory authority, but would raise serious constitutional concerns. Information pertaining to that conduct would undoubtedly shed light on government operations and contribute significantly to the public's understanding of agency operations and the allocation of taxpayer resources.

Thus, the EEOC erred in denying the Institute's fee waiver request.

5. The EEOC must produce the requested information.

Based on the foregoing, the EEOC wrongly applied Exemption 3 and 7 to deny the items one, two, and three of the Institute's Requests, and has not complied with the statutory requirements to timely produce an agency response with respect to items four, five, and six of the Institute's Requests.

We ask that the FOIA Appeals Office compel the EEOC to produce the documents identified in the Institute's Requests.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Shelton", with a horizontal line drawn through the middle of the signature.

Adam Shelton
Staff Attorney
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute

cc: FOIA@eeoc.gov



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Legal Counsel**

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Website: www.eeoc.gov

June 13, 2025

VIA: cryland@goldwaterinstitute.org

Catherine Ryland
GOLDWATER INSTITUTE
500 E Coronado St.
Phoenix, AZ 85004

RE: FOIA No.: **820-2025-010462**

In our April 21, 2025, letter we advised that you were placed in the "Other" category for fee purposes and denied your fee waiver. We also placed the request on hold to determine what search fees, if any, you would have to pay in full before processing your request could resume.

Request Items 4 and 5 seek:

4. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation from January 1, 2015 through the date of this request.
5. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation involving allegations of a pattern-or-practice of age discrimination in violation of the Age Discrimination in Employment Act of 1967 from January 1, 2015 through the date of this request.

With respect to these items, our office estimates a minimum search time of 9 (nine) hours the first eight (8) to be done by paralegal staff at a rate of 9.00 per quarter hour, and one hour by a supervisor at a rate of 17.50 per hour.¹ Crediting the first two (2) hours of search time, you must pay for seven (7) hours.² Based on a calculation consistent with 29 C.F.R. § 1610.15(c)(1)(ii)(D), **you must pay Two Hundred Eighty-Six Dollars (286.00) before processing your request can resume.**³

Pursuant to 29 C.F.R. § 1610.15(i)(4), **payment is required within thirty (30) calendar days from the date of this letter.** If payment is not received, your request will be denied.

Please be advised that this is just an estimate and may be revised upward to reflect additional search time. Should you be required to pay additional search fees, our office will contact you prior to assessment.

If you wish to proceed, please pay **Two Hundred Eighty-Six Dollars (286.00)** by either:

1. . VISA, MASTERCARD, AMERICAN EXPRESS and DISCOVER credit cards are accepted. Debit cards bearing the VISA or MASTERCARD logo are also accepted. We will finish processing your request after EEOC receives a copy of your pay.gov credit or debit card receipt.
2. Check payable to the UNITED STATES TREASURER to the address above.

You may contact the EEOC FOIA Public Liaison Michael L. Heise for further assistance or to discuss any aspect of your request. In addition, you may contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer.

¹ See 29 C.F.R. § 1610.15(c)(1)(ii)(B), (D).

² See 29 C.F.R. § 1610.15(d)(4)(ii).

³ Since the estimated fees exceed Two Hundred Fifty Dollars (250.00), pursuant to 29 C.F.R. § 1610.15(i)(2), advanced payment in full is required.

820-2025-010462

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free 1-877-684-6448.

The contact information for the FOIA Public Liaison is as follows: Michael L. Heise, EEOC FOIA Public Liaison, Office of Legal Counsel, FOIA Division, Equal Employment Opportunity Commission, 131 M. Street, N.E., Fifth Floor, Washington, D.C. 20507, email to FOIA@eeoc.gov, telephone at (202) 921-2542; or fax at (202) 827-7545.

If you are not satisfied with any of the decisions reflected above, you may administratively appeal in writing. Your appeal must be postmarked or electronically transmitted in 90 days from receipt of this letter to the OFFICE OF LEGAL COUNSEL, FOIA DIVISION, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 131 M Street, NE, 5NW02E, Washington, D.C. 20507, email to FOIA@eeoc.gov; online at <https://eeoc.arkcase.com/foia/portal/login>, or fax at (202) 827-7545. Your appeal will be governed by 29 C.F.R. § 1610.11.⁴

Sincerely,



Michael L. Heise
Assistant Legal Counsel | FOIA Division
FOIA@eeoc.gov

⁴ A letter concerning Request Item 6 will be sent to you separately. Also, it appears your "appeal" submitted on June 2, 2025, as a FOIA request numbered 820-2025-012759 will be closed administratively because the appeal you properly submitted on that same date is identical and currently open and in process by and through FOIA Appeal number 820-2025-000689A.



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Legal Counsel**

131 M St, N. E., Fifth Floor
Washington, D. C. 20507
Free: (833) 827-2920
ASL: (844) 234-5122
FAX: (202) 827-7545
Website: www.eeoc.gov

06/30/2025

VIA: cryland@goldwaterinstitute.org

Catherine Ryland
Goldwater Institute
500 E. Colorado Street
Phoenix, Arizona 85004

Re: FOIA Appeal No.: 820-2025-000689A
FOIA No. 820-2025-010462

Dear Ms. Ryland:

Your appeal under the Freedom of Information Act (FOIA) received on 06/02/2025, is processed. The paragraph(s) checked below apply:

- ☐ The initial determination issued on your request is completely reversed and your appeal is granted.
- ☒ The initial determination issued on your request is affirmed and your appeal is denied.
 - ☒ Pursuant to the FOIA Exemptions cited in the initial denial of your request.
 - ☒ Pursuant to the FOIA Exemptions indicated at the end of this letter.
- ☒ If you are dissatisfied with this decision, you may file a civil action in the United States district court in the district where you reside or have your principal place of business, where the agency records are situated, or in the District of Columbia.

You may contact the EEOC FOIA Public Liaison, Michael L. Heise, for further assistance or to discuss any aspect of your appeal. In addition, you may contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer.

The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at (202) 741-5770; toll free (877) 684-6448.

The contact information for the FOIA Public Liaison: (see contact information in the above letterhead or under signature line).

- ☒ See the comments below.

Sincerely,

Gary J. Hozempa /s/
Gary J. Hozempa
Assistant Legal Counsel
Advice & External Litigation Division
FOIA@eeoc.gov

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Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

Exemption(s) Used:

(b)(3)(A)(i) Section 107 of the ADA and(b)(3)(A)(i) Section 207 of the GINA and(b)(3)(A)(i) Sections 706(b)and(b)(3)(A)(i) Sections 709(e)and(b)(7)(C)

(b)(3)(A)(i) Section 107 of the Americans with Disabilities Act (ADA)

Exemption (b)(3)(A)(i) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3)(A)(i) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, states that disclosure is not required for a matter specifically exempted from disclosure by statute . . . if that statute...(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; Section 107 of the Americans with Disabilities Act (ADA) and § 207 of the Genetic Information Nondiscrimination Act (GINA) adopt the procedures of Sections 706 and 709 of Title VII. See *Equal Employment Opportunity Commission v. Associated Dry Goods Co.*, 449 U.S. 590 (1981); *Frito-Lay v. EEOC*, 964 F. Supp. 236, 239-43 (W.D. Ky. 1997); *American Centennial Insurance Co. v. United States Equal Employment Opportunity Commission*, 722 F. Supp. 180 (D.N.J. 1989); and *EEOC v. City of Milwaukee*, 54 F. Supp. 2d 885, 893 (E.D. Wis. 1999).

(b)(3)(A)(i) Section 207 of the Genetic Information Nondiscrimination Act (GINA)

Exemption (b)(3)(A)(i) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3)(A)(i) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, states that disclosure is not required for a matter specifically exempted from disclosure by statute . . . if that statute...(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; Section 107 of the Americans with Disabilities Act (ADA) and § 207 of the Genetic Information Nondiscrimination Act (GINA) adopt the procedures of Sections 706 and 709 of Title VII. See *Equal Employment Opportunity Commission v. Associated Dry Goods Co.*, 449 U.S. 590 (1981); *Frito-Lay v. EEOC*, 964 F. Supp. 236, 239-43 (W.D. Ky. 1997); *American Centennial Insurance Co. v. United States Equal Employment Opportunity Commission*, 722 F. Supp. 180 (D.N.J. 1989); and *EEOC v. City of Milwaukee*, 54 F. Supp. 2d 885, 893 (E.D. Wis. 1999).

(b)(3)(A)(i) Section 706(b) of Title VII of the Civil Rights Act of 1964 (Title VII)

Exemption (b)(3)(A)(i) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3)(A)(i) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, states that disclosure is not required for a matter specifically exempted from disclosure by statute . . . if that statute...(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; Sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(b), 2000e-8(e)(2007), are part of such a statute. Section 706(b) provides that: Charges shall not be made public by the Commission Nothing said or done during and as a part of [the Commission's informal endeavors at resolving charges of discrimination] may be made public

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(b)(3)(A)(i) Sections 709(e) of Title VII

Exemption (b)(3)(A)(i) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3)(A)(i) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, states that disclosure is not required for a matter specifically exempted from disclosure by statute . . . if that statute\ n\ n(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; Section 709(e) of Title VII provides: It shall be unlawful for any officer of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section [to investigate charges of discrimination and to require employers to maintain and submit records] prior to the institution of any proceeding under this title involving such information.

(b)(7)(C)

Exemption (b)(7)(C) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(7)(C) (2016), as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, authorizes the Commission to withhold: records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacyThe seventh exemption applies to civil and criminal investigations conducted by regulatory agencies. *Abraham & Rose, P.L.C. v. United States*, 138 F.3d 1075, 1083 (6th Cir. 1998). Release of statements and identities of witnesses and subjects of an investigation creates the potential for witness intimidation that could deter their cooperation. *National Labor Relations Board v. Robbins Tire and Rubber Co.*, 437 U.S. 214, 239 (1978); *Manna v. United States Dep't. of Justice*, 51 F.3d 1158, 1164 (3d Cir. 1995). Disclosure of identities of employee-witnesses could cause "problems at their jobs and with their livelihoods." *L&C Marine Transport, Ltd. v. United States*, 740 F.2d 919, 923 (11th Cir. 1984). The Supreme Court has explained that only "[o]fficial information that sheds light on an agency's performance of its statutory duties" merits disclosure under FOIA, and noted that "disclosure of information about private citizens that is accumulated in various governmental files" would "reveal little or nothing about an agency's own conduct." *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989). For the purposes of determining what constitutes an unwarranted invasion of personal privacy under exemption (b)(7)(C), the term "personal privacy" only encompasses individuals, and does not extend to the privacy interests of corporations. *FCC v. AT&T Inc.*, 131 S.Ct. 1177, 1178 (2011).

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Comments

The Goldwater Institute submitted FOIA requests that were consolidated under FOIA No. 820-2025-010462. This request sought:

1. The total number of complaints submitted to the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to Meathead Movers or any affiliated entity pertaining to allegations of age discrimination from January 1, 2016, to the date of this request.
2. Copies of all publicly available records on which the EEOC relied in initiating an investigation into Meathead Movers or any affiliated entity for alleged violations of federal law or EEOC regulations based on age discrimination from January 1, 2016, to January 1, 2018
3. The total number of investigations undertaken by the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to any moving company involving allegations of age discrimination from January 1, 2016, to the date of this request.
4. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation from January 1, 2015, through the date of this request.
5. Copies of all complaints in lawsuits filed by the EEOC based on a directed investigation involving allegations of a pattern-or-practice of age discrimination in violation of the Age Discrimination in Employment Act of 1967 from January 1, 2015, through the date of this request.
6. Records of communications, including email communications, to or from any official or employee of the U.S. Equal Employment Opportunity Commission concerning Meathead Movers or its owner or employees, and any of the following individuals: Lance Clauson, Lacey Clauson, Julie Steinberg, or Darrell Steinberg.

On April 17, 2025, the FOIA Division issued a determination denying requests 1 – 3. Items 4 – 6 remained open pending a fee determination and waiver request. You submitted an appeal on June 2, 2025.

On appeal, we conducted a de novo review of requests 1-3. We affirm the determination of the FOIA Division, and the appeal is denied.

Requests 1 and 2 were properly denied under FOIA exemption (b)(3)(A)(i) and (b)(7)(c).

Exemption (b)(3)(A)(i) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3)(A)(i) (2006), amended by the OPEN FOIA Act of 2009, Pub. L. No. 111-83, 123 Stat. 2142, 2184, states that disclosure is not required for a matter specifically exempted from disclosure by statute if that statute:

(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue[.]

Sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(b), 2000e-8(e)(1982), are part of such a statute. Section 706(b) provides that:

Charges shall not be made public by the Commission Nothing said or done during and as a part of [the Commission's informal endeavors at resolving charges of discrimination] may be made public.

. . . .
Section 709(e) of Title VII provides:

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It shall be unlawful for any officer of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section [to investigate charges of discrimination and to require employers to maintain and submit records] prior to the institution of any proceeding under this title involving such information.

Exemption (b)(7)(C) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(7)(C) (2006), amended by the OPEN Government Act of 2007. Pub. L. No. 110-175, 121 Stat. 2524, authorizes the Commission to withhold:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy . . .

Pursuant to Title VII, the EEOC can neither confirm nor deny to a third party the existence of a charge of discrimination filed against a specific entity, nor may it disclose charge files to third parties, which would include the information relied upon and used as part of the EEOC's processing of a charge. Your appeal notes that because you are seeking the "total number of complaints" you are not requesting information obtained by the Commission pursuant to its investigative authority. However, accepting and processing a charge is an action done pursuant to the Commission's investigative authority and identifying the number of charges against a specific entity to a third party is prohibited under the confidentiality provisions of Title VII. Further, that public litigation has commenced pursuant to a particular charge does not impact or waive EEOC's obligations with respect to other applicable charges nor does it permit the agency to disclose the total number of charges filed against a specific entity to a third party. Additionally, disclosure of the existence of a charge of discrimination to a third party could reasonably be expected to constitute a clearly unwarranted invasion of personal privacy.

Request 3 seeks: "The total number of investigations undertaken by the U.S. Equal Employment Opportunity Commission ("EEOC") pertaining to any moving company involving allegations of age discrimination from January 1, 2016 to the date of this request."

This request is denied because the Commission does not have industry level data responsive to this request.

cc: Micheal Heise
FOIA Division