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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11
12 Irvin Muchnick,) Case No. 15-cv-03060-CRB
)
13 Plaintiff,) ANSWER
)
14 v.)
)
15 Department of Homeland Security)
)
16 Defendant.)
17 _____)

18 Defendant United States Department of Homeland Security (“DHS” or “Defendant”) answers
19 Plaintiff’s Complaint in like numbered paragraphs as follows:

20 Paragraph 1: This paragraph contains Plaintiff’s characterization of this action and requires no
21 response. To the extent a response is required, Defendant admits this is an action under the Freedom of
22 Information Act (“FOIA”) in which Plaintiff is requesting records in the possession of the United States
23 Citizenship and Immigration Service (“USCIS”), an agency within DHS, regarding visa applications,
24 green card files, and ancillary documents in USCIS files associated with George Gibney, an Irish
25 national.

1 **JURISDICTION AND VENUE**

2 Paragraph 2: This paragraph contains jurisdictional and venue allegations to which no response
3 is required. To the extent a response is required, Defendant admits that this Court has jurisdiction
4 pursuant to 5 U.S.C. §§ 552(a)(4)(B). However, reference to 28 U.S.C. § 1331 is unnecessary given the
5 provisions of the FOIA.

6 **PARTIES**

7 Paragraph 4: Defendant lacks knowledge or information sufficient to form a belief as to the truth
8 of the allegations in this paragraph and therefore denies those allegations.

9 Paragraph 5: Defendant lacks knowledge or information sufficient to form a belief as to the truth
10 of the allegations in this paragraph and therefore denies those allegations.

11 Paragraph 6: Defendant lacks knowledge or information sufficient to form a belief as to the truth
12 of the allegations in this paragraph and therefore denies those allegations.

13 Paragraph 7: Defendant admits the allegations set forth in this paragraph.

14 **FACTUAL ALLEGATIONS**

15 Underlying Factual Background for the FOIA Request

16 Paragraph 8: Defendant lacks knowledge or information sufficient to form a belief as to the truth
17 of the allegations in this paragraph.

18 The Arc of Muchnick’s FOIA Request

19 Paragraph 9: Defendant admits Plaintiff filed a FOIA request with USCIS on January 27, 2015,
20 and that an article was attached to said request. The remainder of this paragraph constitutes Plaintiff’s
21 characterization of the attached article. The Court is referred to these materials, which are the best
22 evidence of their contents.

23 Paragraph 10: Defendant admits the allegations set forth in this paragraph.

24 Paragraph 11: Defendant admits the allegations set forth in this paragraph.

25 Paragraph 12: Defendant admits that it released four pages in their entirety to the Plaintiff,
26 withheld ninety-eight pages in full, and marked the withheld materials with the applicable FOIA
27 exemption. The remainder of this paragraph constitutes Plaintiff’s characterization of the attached
28 documents. The Court is referred to these materials, which are the best evidence of their contents.

1 SECOND AFFIRMATIVE DEFENSE

2 The Court lacks subject matter jurisdiction over Plaintiff's request for relief to the extent that it
3 exceeds the relief authorized by statute under FOIA, 5 U.S.C. Section 552.

4 THIRD AFFIRMATIVE DEFENSE

5 Defendant properly withheld certain information because it is protected from disclosure under
6 FOIA pursuant to:

7 5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly
8 unwarranted invasion of the personal privacy of third parties;

9 5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement
10 purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the
11 personal privacy of third parties;

12 5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement
13 purposes the release of which would disclose techniques and procedures for law enforcement
14 investigations or prosecutions.

15 WHEREFORE, Defendant prays that Plaintiff's claims for relief be denied, and that judgment be
16 entered in favor of Defendant.

17 DATED: August 4, 2015

Respectfully submitted,

18 MELINDA HAAG
United States Attorney

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20 /S/
JAMES A. SCHARF
Assistant United States Attorney
Attorney for Defendant
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