

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

CLANT M. SEAY)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES DEPARTMENT OF)
 AGRICULTURE (“USDA”))
 1400 Independence Ave., S.W.)
 Washington, D.C. 20250,)
)
 ANIMAL AND PLANT HEALTH INSPECTION)
 SERVICE (“APHIS”))
 4700 River Road)
 Riverdale, MD 20737)
)
 Defendants.)

CIVIL ACTION NO. 3:18-CV-0026-MPM-JMV

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

NOW advances the Plaintiff through his undersigned counsel, and shows this Honorable Court as follows:

INTRODUCTION

This is a case about the USDA (United States Department of Agriculture) unlawful refusal to provide vital information to a news reporter who is writing an urgent breaking news story regarding Animal Cruelty to Tennessee Walking Horses. The contumacious and unconscionable delay by the USDA has persisted 146 days since the news reporter made the request for the information under the Freedom Of Information Act on September 8, 2017. The website publication for which the news reporter works has hundreds of thousands of readers. The USDA’s unlawful refusal to provide the requested information to the news reporter has impeded the reporter in his exercise of his First Amendment rights to timely inform his readers of important

news they have a right to know, all in violation of the First Amendment to the U. S. Constitution, and the letter and intent of the Freedom Of Information Act (“FOIA”).

JURISDICTION AND VENUE

This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Venue is proper in the Oxford Division of the Northern District of Mississippi

THE PARTIES

1. Plaintiff, Clant M. Seay, is an adult, resident citizen of Oxford, Lafayette County, Mississippi.
2. Defendant, USDA, is an agency of the federal government and has possession and control of the records and requested documents at issue in this case. It is responsible for implementing the Horse Protection Act (“HPA”), and the affirmative disclosure requirements of FOIA, including the obligation to make certain records available to the public including news gatherers who inform the public of breaking and informative news under the First Amendment to the U. S. Constitution.
3. Defendant, APHIS, is a division of the USDA which administers the Horse Protection Act, as amended (HPA). As such, the Defendants have possession and control of the records at issue here, and the documents the Plaintiff has requested the Defendant to produce under the Freedom of Information Act (FOIA). The Defendants are responsible for implementing the affirmative disclosure requirements of FOIA, including the obligation to make certain records available to the public when requested by citizens and news gatherers under the “Freedom Of Information Act” (“FOIA”).

FACTS OF THE CASE

4. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, as amended.
5. The Plaintiff is the owner and publisher of BillyGoBoy.Com website publication.
6. The Plaintiff works as a new reporter, videographer and photographer for the BillyGoBoy.Com website publication.
7. The BillyGoBoy.Com website publication reports on news regarding Animal Cruelty to Tennessee Walking Horses.
8. From 2013 to the present, BillyGoBoy.Com website publication has published 1,193 articles with over one million website views.
9. BillyGoBoy.Com publication articles have subsequently led to mainstream news coverage of Animal Cruelty to Tennessee Walking Horses in publications such as *The Tennessean* (Nashville, TN), *USA Today*, *Panama City News-Herald* (Panama City, FL), *Chattanooga Times Free Press*; *The Daily Herald* (Columbia, TN), *Shelbyville, Times-Gazette* (Shelbyville, TN), *The Clarion-Ledger* (Jackson, MS), *News & Observer* (Raleigh, NC), and *The Charlotte Observer* (Charlotte, NC) newspapers.
10. BillyGoBoy.Com publication articles have led to television coverage of Animal Cruelty to Tennessee Walking Horses by NBC, CBS, ABC and Fox affiliates in Tennessee, Mississippi, North Carolina and Florida.
11. Videos published by BillyGoBoy.Com website were used make the (DoDo) video – “Here’s What “Soring” Does To Horses” - which has now been viewed over 14,739,560 times, since being released on March 8, 2017.
12. The Plaintiff has covered proceedings before the U. S. Fifth Circuit Court of Appeals in New Orleans dealing with USDA regulations regarding enforcement of the Horse Protection Act, as

amended, and Hearing before the U. S. House of Representatives - Energy and Commerce Subcommittee - on legislation to remove the pads and chains Tennessee Walking Horses being exhibited at shows.

13. The Plaintiff was accorded “news gatherer” status by Order (Sep. 29, 2015) of the Maury County Circuit Court (Columbia, TN), which allowed the Plaintiff to invoke the Tennessee Reporter Shield Law to protect confidential sources in State of Tennessee vs. Mr. Jamie Brandon Lawrence, Criminal Case #24363.
14. Attached as **Exhibit “A”** are the Plaintiff’s “Journalism Credentials”.
15. On **Sep. 5, 2017**, the BillyGoBoy.Com website publication broke the story that within approximately **24** hours of winning the 2017 Tennessee Walking Horse World Grand Championship on **Sep. 2, 2017**, Mr. Bill Callaway, Trainer and rider of “*Gen’s Black Maverick*”, began serving a USDA Federal Suspension for alleged Horse "**SORING**" (Animal Cruelty) which was committed on **Aug. 27, 2016** at the TWH Super Bowl a/k/a "TWH National Celebration".
16. Attached as **Exhibit “B”** is a copy of the BillyGoBoy.Com article published on September 5, 2017: “*Walking Horse Trainers BOYZ Mr. Bill Callaway Wins World Grand Championship, Then Goes On Federal Suspension For Alleged Horse Protection Act Violation*” shared on Facebook 394 times.
17. Here is a website link to the news story:
<http://billygoboy.com/2017/09/05/walking-horse-trainers-boyz-mr-bill-callaway-wins-world-grand-championship-then-goes-on-federal-suspension-for-alleged-horse-protection-act-violation/>
18. Attached as **Exhibit “C”** is USDA Office of Administrative Law Judge CONSENT DECISION AND ORDER in HPA Docket #17-0169 dated **March 29, 2017**, adjudicating Mr. Bill Callaway to pay \$1,100.00 fine, and serve USDA Federal Suspension beginning on September 4, 2017 and ending May 3, 2018 from showing, exhibiting or entering any horse in a horse show.

19. The identity of the Tennessee Walking Horse that Mr. Bill Callaway allegedly “SORED” on August 27, 2016, was *not known* by the BillyGoBoy.Com news reporter on September 5, 2017.
20. On September 6, 2017, the story “USDA Suspends Walking Horse Champion” was reported on Channel 5 - TV (CBS) in Nashville, TN:
21. Attached as **Exhibit “D”** is a video of the Channel 5 TV (CBS) telecast on September 6, 2017.
22. Here is a website link to the story:
<https://www.facebook.com/BillyGoBoy/videos/1301182040004889/>
23. On September 7, 2017, the Plaintiff verbally requested USDA Public Affairs Officer to provide documents and information regarding any alleged violations of the Horse Protection Act on August 27, 2016, which had been adjudicated by USDA Administrative Law Judge Consent Order Decision against Mr. Bill Callaway, Trainer of World Grand Champion Tennessee Walking Horse, relating to HPA Docket No. 17-0169.
24. Attached as **Exhibit “E”** is Plaintiff’s email to USDA Aphis Public Affairs Officer Mr. Richard Bell with subject line: “*URGENT REQUEST - BREAKING NEWS STORY - Who, What, When, Where of HPA Docket No. 17-0169 - 2:23 PM EDST - SEP. 7, 2017*”.
25. On September 7, 2017, USDA Public Affairs Officer Mr. Richard Bell told the Plaintiff that he could not provide the information to him, and he told the Plaintiff to file a FOIA request to obtain it.
26. On September 8, 2017, the Plaintiff filed a FOIA REQUEST via email to USDA APHIS FOIA officer entitled: “FOIA request 2017-APHIS-06569-F” – “URGENT - BREAKING NEWS STORY - In Re: Bill Callaway - HPA Docket 17-0169.
27. Attached as **Exhibit “F”** is a copy of Plaintiff’s “FOIA request 2017-APHIS-06569-F” dated September 8, 2017.

28. The USDA advised the Plaintiff by letter dated September 11, 2016, that the response to FOIA Request would be made by October 6, 2017.
29. Attached as **Exhibit “G”** is a copy of USDA APHIS Ack Letter.docx dated Sep. 11, 2017, from Tonya G. Wood, Director, FOIA, Legislative And Public Affairs – giving target response date of Oct. 6, 2017, to CMS FOIA Request #17-06569, all attached to transmittal email from Shirley A. Boyd, USDA APHIS.
30. On October 16, 2017, the Plaintiff learned that the allegedly “SORE” Tennessee Walking Horse trainer by Mr. Bill Callaway on August 27, 2016 at the Tennessee Walking Horse National Celebration was the 2017 World Grand Champion “Gen’s Black Maverick” owned by Mr. Keith Rosbury and Ms. Lorraine Rosbury.
31. On October 16, 2017, the Plaintiff learned that on September 26, 2017, the two Owners of “Gen’s Black Maverick”, Mr. Keith Rosbury and Ms. Lorraine Rosbury, had each agreed to a USDA Office of Administrative Law Judge Consent Decision Orders, each dated September 26, 2017, for each person to pay serve USDA Federal Suspensions for alleged Horse Protection Act violations, and to each pay fines related to the alleged “SORING” of “Gen’s Black Maverick” at the TWH Super Bowl on Aug. 27, 2016, per HPA Docket #s 17-0172 and 17-0173.
32. Attached as **Exhibit “H”** is USDA Office of Administrative Law Judge CONSENT DECISION AND ORDER in HPA Docket #17-0172 dated September 26, 2017, adjudicating Mr. Keith Rosbury to pay \$550.00 fine, and serve USDA Federal Suspension beginning on January 1, 2018, and ending April 30, 2018, from showing, exhibiting or entering any horse in a horse show.
33. Attached as **Exhibit “I”** is USDA Office of Administrative Law Judge CONSENT DECISION AND ORDER in HPA Docket #17-0173 dated September 26, 2017, adjudicating Ms. Lorraine Rosbury to pay \$550.00 fine, and serve USDA Federal Suspension beginning on January 1, 2018,

and ending April 30, 2018, from showing, exhibiting or entering any horse in a horse show.

34. Attached as **Exhibit “J”** are the 2016 and 2017 Show Records (The Walking Horse Report) of Tennessee Walking Horse, “Gen’s Black Maverick”, owned by Keith/Lorraine Rosbury and Rider, Mr. Bill Callaway.
35. Attached as **Exhibit “K”** is a copy of the BillyGoBoy.Com article published on October 16, 2017: *... ”2017 World Grand Champion Gen’s Black Maverick Allegedly SORED By Trainer BOYZ Mr. Bill Callaway At 2016 Tennessee Walking Horse Super Bowl (Celebration)”*
36. Here is a website link to the story:
[Fhttp://billygoboy.com/2017/10/16/2017-world-grand-champion-gens-black-maverick-allegedly-sored-by-trainer-boyz-mr-bill-callaway-at-2016-tennessee-walking-horse-super-bowl-celebration/](http://billygoboy.com/2017/10/16/2017-world-grand-champion-gens-black-maverick-allegedly-sored-by-trainer-boyz-mr-bill-callaway-at-2016-tennessee-walking-horse-super-bowl-celebration/)
37. The Plaintiff emailed USDA APHIS FOIA officers from October 10, 2017 to October 26, 2017 diligently inquiring when the Defendant would provide response to Plaintiff’s FOIA Request (Sep. 8, 2017).
38. Attached as **Exhibit “L”** are Plaintiff’s email communications with the Defendant from October 10, 2017 to October 26, 2017.
39. On **November 13, 2017**, 66 days after the Plaintiff’s FOIA Request was submitted on September 8, 2017, the USDA APHIS advised the Plaintiff by email that it would NOT provide the requested HPA (Horse Protection Act) Violation Citation Documents regarding the alleged "SORING" of TWH "Gen's Black Maverick" on August 27, 2016 TWH Super Bowl a/k/a Tennessee Walking Horse National Celebration in Shelbyville, TN.
40. Attached as **Exhibit “M”** is a copy of USDA APHIS email (November 13, 2017) from Mr. Robbie T. Perry apologizing for delay in responding and advising: “This email is a notification that we have completed and closed your FOIA request 2017-APHIS-06569-F”. (Sep. 8, 2017).

41. The USDA APHIS email (November 13, 2017) included an attached letter dated November 8, 2017, denying Plaintiff's FOIA Request.
42. Attached as **Exhibit "N"** is the Letter dated November 9, 2017, from FOIA Director Ms. Tonya G Woods ("2017-06569 Glomar response.pdf) denying the Plaintiff's FOIA Request.
43. The USDA cited Exemption 7A to the Freedom Of Information Act as the reason for its denial of Plaintiff's FOIA Request.
44. On November 17, 2017, the Plaintiff filed FOIA APPEAL #18-0054 with USDA APHIS FOIA Officer appealing denial of Plaintiff's FOIA Request 2017-APHIS-06569-F" under Exemption 7A to the Freedom Of Information Act.
45. Attached as **Exhibit "O"** is the Plaintiff's APHIS 18-0054 FOIA APPEAL filed on November 17, 2017.
46. Attached as **Exhibit "P"** is APHIS ACK Letter dated November 17, 2017, acknowledging receipt of Plaintiff's FOIA APPEAL, and providing target response date of December 18, 2017.
47. The USDA has not responded to Plaintiff's FOIA APPEAL filed on November 17, 2017.
48. A period of 45 days has expired between the target response date of December 18, 2017 to January 31, 2018.
49. A period of 146 days has passed since the Plaintiff filed his FOIA Request on September 8, 2017.
50. The Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and the First Amendment to the U. S. Constitution.
51. There is no legal basis for the Defendants ongoing denial of such access.
52. The Plaintiff should be provided the requested information because there is an immediate and continuing public interest in this important information necessary to inform the public of this historic news relating to the alleged Animal Cruelty to Tennessee Walking Horses ("Big Lick").

53. The Plaintiff should be provided this information for all the reasons set out in the Plaintiff's FOIA APPEAL, #18-0054, filed on November 17, 2017, and attached hereto as Exhibit "O".
54. The Plaintiff should be provided the requested information because the Horse Protection Act violation charges against the Trainer, Mr. Bill Callaway, and Owners, Mr. Keith and Ms. Lorraine Rosbury of 2017 World Grand Champion Tennessee Walking Horse, "Gen's Black Maverick" have been finally adjudicated by USDA Office of Administrative Law Judge "*Consent Decision And Order/s*" entered in HPA Docket #s 17-0169; 17-0172; and 17-0173, respectively, as evidenced by Exhibits "B", "H", and "I" attached hereto.
55. The final adjudication of alleged Horse Protection Act violation charges brought against Trainer Mr. Bill Callaway, and Owners Mr. Keith Rosbury and Ms. Lorraine Rosbury, regarding the alleged "Soring" of 2017 World Grand Champion Tennessee Walking Horse "Gen's Black Maverick" on August 27, 2016, are public records. By virtue of these said three individuals entering into the three referenced Consent Decision And Orders which finally adjudicate the alleged Horse Protection Act violations against each of these individuals, there is no further right of privacy, if there ever was one, by which the Defendant USDA can refuse to provide the documents requested by this news reporter under the Freedom Of Information Act so the news reporter is able to completely inform the public of this historically important news regarding Animal Cruelty to Tennessee Walking Horses.
56. The BillyGoBoy.Com website publication covers the issue of Animal Cruelty to Tennessee Walking Horses ("Big Lick") with a national and international readership. The significant public interest and its right to know, and the intent of the Freedom of Information Act (FOIA), to allow news reporters to have access to public information in order to accurately report the news, are being unlawfully thwarted and obstructed by APHIS's delay and refusal to provide the information that Plaintiff requested under "FOIA" on September 8, 2017.

PRAYER FOR RELIEF:

WHEREFORE, Plaintiff requests this Court:

- (1) Order Defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award Plaintiff costs and reasonable attorney's fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as may deem just and proper.

This, the 1st day of February, 2018.

Respectfully submitted,

/s/ Clant M. Seay _____
Clant M. Seay MSB #6695
Law Office of Clant M. Seay
1501 Jackson Avenue West
Suite 113-115
Oxford MS 38655
Phone: (662) 380-3367
Email: cmseaylaw@aol.com
