

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

INFORMED CONSENT ACTION NETWORK,

Plaintiff,

v.

CENTERS FOR DISEASE CONTROL AND  
PREVENTION,

Defendant.

20 Civ. 6177 (JGK)

**STIPULATION AND ORDER  
REGARDING DOCUMENT  
PRODUCTION BY DEFENDANT**

**WHEREAS**, on August 6, 2020, plaintiff Informed Consent Action Network (“Plaintiff”) filed a complaint for declaratory and injunctive relief (the “Complaint”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), against defendant Centers for Disease Control and Prevention (“Defendant”);

**WHEREAS**, the Complaint requested, among other things, that Defendant search for and produce documents responsive to Plaintiff’s FOIA requests to Defendant dated April 29, 2020 (collectively, the “FOIA Requests”);

**WHEREAS**, Defendant filed an Answer to the Complaint on October 23, 2020; and

**WHEREAS**, Plaintiff and Defendant have engaged in negotiations with respect to the FOIA Requests and the timing of Defendant’s responses to the FOIA Requests.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and among Plaintiff and Defendant as follows:

1. For purposes of this action, the FOIA Requests are hereby modified to request that Defendant search for and produce documents responsive to the FOIA Requests and which contain either of the terms “vaccin!” or “immuniz!” (the “Amended FOIA Requests”).

Defendant has represented to Plaintiff that the total volume of e-mail messages that are

responsive to the Amended FOIA Requests, exclusive of any attachments to those messages, is 3,377 pages.

2. On or before February 26, 2021, Defendant will review 1,000 pages of e-mail messages (but not the corresponding attachments to those e-mails) that are responsive to the Amended FOIA Requests and will complete processing (*i.e.*, release of the requested documents, notification to Plaintiff of the complete or partial withholding pursuant to any applicable FOIA exemption, or consultation with other agencies) of a first tranche of responsive e-mails without attachments (“First Tranche”).

3. On or before March 31, 2021, Defendant will review 1,000 pages of e-mail messages (but not the corresponding attachments to those e-mails) that are responsive to the Amended FOIA Requests and will complete processing (*i.e.*, release of the requested documents, notification to Plaintiff of the complete or partial withholding pursuant to any applicable FOIA exemption, or consultation with other agencies) of a second tranche of responsive documents (“Second Tranche”).

4. On or before April 30, 2021, Defendant will review 1,377 pages of e-mail messages (but not the corresponding attachments to those e-mails) that are responsive to the Amended FOIA Requests and will complete processing (*i.e.*, release of the requested documents, notification to Plaintiff of the complete or partial withholding pursuant to any applicable FOIA exemption, or consultation with other agencies) of a third tranche of responsive documents (“Third Tranche”).


5. Within thirty days after Defendant has completed processing its Third Tranche of responsive documents pursuant to Paragraph 4 above, Plaintiff reserves the right to request that Defendant locate and process up to nine (9) attachments that were part of any of the e-mails

produced pursuant to Paragraphs 2–4 above. The parties will meet and confer to negotiate a consensual schedule for Defendant’s processing and production of the requested documents, except to the extent that such documents are withheld or redacted pursuant to applicable FOIA exemptions.

6. By entering into this Stipulation and Order, Defendant does not concede that Plaintiff is entitled to prevailing party status under FOIA’s fee-shifting provision, 5 U.S.C. § 552(a)(4)(E), and Plaintiff does not waive any right (i) to file a motion opposing Defendant’s complete or partial withholding of responsive documents pursuant to any applicable FOIA exemption, (ii) to request, in a subsequent FOIA request outside of this litigation, any attachments related to any documents produced, or (iii) to make any other request for documents in a subsequent FOIA request outside of this litigation.

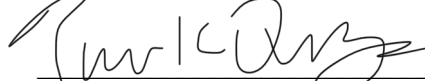
Dated: New York, New York  
February 4, 2021

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*Attorney for Defendant*

SO ORDERED:

/s/ John G. Koeltl February 5, 2021

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HONORABLE JOHN G. KOELTL  
UNITED STATES DISTRICT JUDGE