

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 04-B-1264 (OES)

MARY M. HULL,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF LABOR,

Defendant.

---

**DEFENDANT'S ANSWER TO COMPLAINT**

---

Comes now the defendant, the United States Department of Labor, (hereafter, "Defendant"), and in answer to the individually-numbered paragraphs of plaintiff Mary M. Hull's "Complaint Under Freedom of Information Act," admits, denies, and responds as follows:

PRELIMINARY STATEMENT

1. Paragraph 1 contains Plaintiff's characterization of this lawsuit to which no response is required, but to the extent that any response is deemed required, the allegations contained therein are denied.

JURISDICTION AND VENUE

2. Paragraph 2 contains statements of law and conclusions of law to which no response is required, but to the extent that any response is deemed required, the

allegations contained therein are denied.

3. Paragraph 3 contains statements of law and conclusions of law to which no response is required, but to the extent that any response is deemed required, the allegations contained therein are denied.

#### THE PARTIES

4. Defendant lacks knowledge or information sufficient to respond to the allegations contained in paragraph 4, but to the extent that any response is deemed required, the allegations contained therein are denied.

5. Defendant lacks knowledge or information sufficient to respond to the allegations contained in paragraph 5, but to the extent that any response is deemed required, the allegations contained therein are denied.

6. Defendant admits the assertions contained in paragraph 6 and footnote 1.

#### FACTS

7. With respect to the allegations contained in paragraph 7, Defendant admits that a letter dated March 3, 2004 was sent to the Department of Labor, which purported to be a FOIA request. Defendant states that the letter dated March 3, 2004 speaks for itself.

8. With respect to the allegations contained in paragraph 8, Defendant admits that it responded to Plaintiff's March 3, 2004 letter in a letter dated March 4, 2004. Defendant states that the letter dated March 4, 2004 speaks for itself.

9. With respect to the allegations contained in paragraph 9, Defendant admits that it invoked FOIA Exemption 7(A), 5 U.S.C. § 552(7)(A). Paragraph 9 also contains Plaintiff's characterization of Exemption 7(A) to which no response is required, but to the extent that any response is deemed required, the allegations are denied.

10. With respect to the allegations contained in paragraph 10, Defendant admits that Plaintiff submitted a letter dated March 16, 2004 to the Solicitor of Labor. Defendant states that the letter dated March 16, 2004 speaks for itself.

11. With respect to the allegations contained in paragraph 11, Defendant states that the first sentence of paragraph 11 contains Plaintiff's conclusion of law to which no response is required, but to the extent any response is deemed required, those allegations are denied. As for the second sentence of paragraph 11, Defendant admits that on March 16, 2004, Plaintiff timely appealed the DOL's March 4, 2004, denial of her FOIA request to the Solicitor of Labor.

12. The first sentence of paragraph 12 contains Plaintiff's characterization of 5 U.S.C. § 552(a)(6)(A)(iii) to which no response is required, but to the extent any response is deemed required, the allegations are denied. Defendant denies the allegations in the second sentence of paragraph 12.

13. The first sentence of paragraph 13 contains Plaintiff's conclusions of law to which no response is required, but to the extent any response is deemed required, the allegations are denied. Defendant denies the allegations in the second sentence of

paragraph 13.

14. Defendant denies the allegations in paragraph 14.

15. Defendant denies the allegations in paragraph 15.

16. The first sentence of paragraph 16 contains Plaintiff's conclusion of law to which no response is required, but to the extent that any response is deemed required, the allegations are denied. Defendant denies the allegations in the second sentence of paragraph 16.

17. Paragraph 17 contains Plaintiff's conclusion of law to which no response is required, but to the extent any response is deemed required, the allegations are denied.

#### CLAIM FOR RELIEF

18. In response to the allegations in paragraph 18, Defendant relies on its specific answers to the allegations contained in paragraphs 1 through 17 as if fully set forth herein.

19. Paragraph 19 contains Plaintiff's prayer for relief to which no response is required, but to the extent that any response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

20. Paragraph 20 contains Plaintiff's prayer for relief to which no response is required, but to the extent that any response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

### PRAYER FOR RELIEF

The final unnumbered paragraph and its four components labeled A-D contain Plaintiff's prayers for relief to which no response is required, but to the extent that any response is deemed required, defendant denies that Plaintiff is entitled to the relief requested or to any relief whatsoever.

Any allegation in Plaintiff's Complaint which has not already been admitted, denied or otherwise responded to is hereby denied.

### FIRST DEFENSE

Plaintiff's Complaint fails to state a claim upon which the requested relief can be granted.

### SECOND DEFENSE

No agency records have been improperly withheld under the Freedom of Information Act within the meaning of 5 U.S.C. § 552(a)(4)(B), and Defendant has properly relied on all applicable FOIA exemptions in withholding documents from Plaintiff in whole or in part.

WHEREFORE, having fully answered, Defendant respectfully requests that the Court dismiss this action with prejudice, award Defendant its costs, and grant such other relief as the Court deems appropriate.

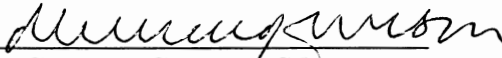
///

///

Dated this 15<sup>th</sup> day of July, 2004.

Respectfully submitted,

JOHN W. SUTHERS  
United States Attorney

  
MICHAEL C. JOHNSON  
Assistant United States Attorney  
1225 17th Street  
Seventh Floor  
Denver, Colorado 80202  
(303) 454-0134

Attorneys for Defendant


**CERTIFICATE OF MAILING**

This is to certify that on this 15<sup>th</sup> day of July, 2004, a true and correct copy of  
the foregoing:

**DEFENDANT'S ANSWER TO COMPLAINT**

was mailed, postage prepaid, to:

Curtis L. Kennedy  
8405 E. Princeton Avenue  
Denver, Colorado 80237-1741

  
\_\_\_\_\_  
Office of the U.S. Attorney