

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

AMERICA FIRST LEGAL
FOUNDATION,
611 Pennsylvania Ave., SE #231
Washington, DC 20003

Plaintiff,

v.

NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION
700 Pennsylvania Ave., NW
Washington, DC 20408

Defendant.

Civil Action No.: 22-2713

COMPLAINT

1. Plaintiff America First Legal Foundation (“AFL”) brings this action against Defendant National Archives and Records Administration (“NARA”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

3. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

4. AFL is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public. All of the records AFL receives will be made publicly available on AFL's website for citizens, journalists, and scholars to review and use. AFL's principal office is located in the District of Columbia.

5. NARA is an agency of the federal government within the meaning of 5 U.S.C. § 552(f) and has possession and control of the records AFL seeks.

BACKGROUND

6. Transparency is key to a thriving democracy. Without it, it is impossible for citizens to hold Government accountable.

7. Indeed, the Biden Administration routinely states that it is committed to a transparent, open, and ethical government.¹

¹ Statement, The White House, FACT SHEET: Biden-Harris Administration Prioritizes Effectiveness, Accountability, and Transparency in Bipartisan Infrastructure Law Implementation (Apr. 29, 2022), <https://tinyurl.com/bdhrccyk>; *Biden White House pledges data, transparency, respect for free press*, Reuters (Jan. 20, 2021), <https://tinyurl.com/3fzz25mf>; Mark Joyella, *Biden's White House Press Secretary Promises 'Trust and Transparency,'* Forbes (Jan. 20, 2021), <https://tinyurl.com/2p8729wz>.

8. “Timely disclosure of records is also essential to the core purpose of FOIA.” U.S. Dep’t Just., Freedom of Information Act Guidelines (Mar. 15, 2022), <https://tinyurl.com/2yd463dv>.

9. Yet, significant questions remain about the ways in which President Biden may have used his office while serving as Vice President. Specifically, significant questions persist about whether the Office of the Vice President was used to advance the interests of then-Vice President Biden’s family.

10. Indeed, there has been extensive public interest in these issues, including into the financial dealings of Hunter Biden and James Biden.² And this interest has not diminished—just days ago polling revealed that “Hunter Biden’s foreign business dealing remains an important story, according to voters[.]”³

11. The answers to these and many related questions bears directly on the public’s confidence in the Government’s integrity.

AFL’S FOIA REQUESTS

12. To better understand these issues, AFL submitted FOIA requests to NARA.

² Matt Viser, et al., *Inside Hunter Biden’s Multimillion-Dollar Deals With a Chinese Energy Company*, Wash. Post (Mar. 30, 2022), <https://wapo.st/3A8rjjW>; Post Editorial Bd., Opinion, *Is the Hunter Biden probe delay to protect Dems in the midterms?*, N.Y. Post (July 21, 2022), <https://tinyurl.com/4z59fsvk>; Carrie Sheffield, *Shocking Harvard Poll: 67% Say Biden Should Be Impeached If Hunter Biden Corruption Proves True*, Indep. Women’s Voice (Apr. 27, 2022), <https://tinyurl.com/2p99z nar>.

³ *Most Voters Say Hunter Biden’s ‘Laptop From Hell’ Still an Important Story*, Rasmussen Reps. (Sept. 6, 2022), <https://tinyurl.com/bdee3bkv>.

Request 2022-0119-F

13. On August 9, 2022, AFL submitted a FOIA request to NARA seeking various communications with Hunter Biden, James Biden, or with other individuals associated with Rosemont Seneca Partners or the Lion Hall Group. *See Ex. A.*

14. In that request, AFL also requested expedited treatment, noting the intense public interest in these issues. *See id.* at 3.

15. On August 17, 2022, NARA sent an e-mail to AFL requesting several clarifications about this request and the two others discussed herein. *See Ex. J.*

16. On August 18, 2022, AFL responded by e-mail to these requests for clarification. *See id.*

17. On August 19, 2022, NARA sent a letter to AFL acknowledging receipt of the FOIA request and assigning it Request Number 2022-0119-F. *See Exs. B & J.*

18. In that response, NARA stated that searches had been conducted, and that approximately 29,760 e-mail messages had been identified as potentially responsive. *See id.*

19. NARA did not, however, provide AFL any estimate of when it would complete its processing of these records. *See id.*

20. In a separate letter sent on August 19, 2022, NARA also denied AFL's request for expedited processing. *See Ex. C.*

21. Notwithstanding the intense public scrutiny paid to the issues underlying AFL's FOIA request, NARA denied the request for expedited treatment after concluding that the FOIA request was not supported by an "urgent need to

inform the public about an actual of alleged Federal Government activity,” and the request did not relate to “[a] matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government’s integrity.” *Id.* at 1.

22. On August 22, 2022, AFL sent NARA an e-mail supplementing this request (2022-0119-F). *See* Ex. J.

23. On August 26, 2022, NARA responded by e-mail, stating that it had supplemented this request in accordance with AFL’s August 22, 2022 e-mail. *See id.*

24. As of the date of this Complaint, AFL has received no further response from NARA about this FOIA request.

Request 2022-0120-F

25. On August 9, 2022, AFL submitted a FOIA request to NARA for communications involving various employees of the Office of the Vice President and Hunter Biden or James Biden regarding official travel, meetings, or White House visits. *See* Ex. D.

26. In that request, AFL also requested expedited treatment, noting the intense public interest in these issues. *See id.* at 4.

27. On August 17, 2022, NARA sent an e-mail to AFL requesting several clarifications about this request and the two others discussed herein. *See* Ex. J.

28. On August 18, 2022, AFL responded by e-mail to these requests for clarification. *See id.*

29. On August 19, 2022, NARA sent a letter to AFL acknowledging receipt of the FOIA request and assigning it Request Number 2022-0120-F. *See* Ex. E.

30. In that response, NARA stated that searches had been conducted, and that approximately 32,403 images and 6,347 e-mail messages had been identified as potentially responsive. *See id.*

31. NARA did not, however, provide AFL any estimate of when it would complete its processing of these records. *See id.*

32. In a separate letter sent on August 19, 2022, NARA also denied AFL's request for expedited processing. *See* Ex. F.

33. Notwithstanding the intense public scrutiny paid to the issues underlying AFL's FOIA request, NARA denied the request for expedited treatment after concluding that the FOIA request was not supported by an "urgent need to inform the public about an actual or alleged Federal Government activity," and the request did not relate to "[a] matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity." *Id.* at 1.

34. As of the date of this Complaint, AFL has received no further response from NARA about its FOIA request.

Request 2022-0121-F

35. On August 9, 2022, AFL submitted a FOIA request to NARA for records related to the foreign business dealings of Hunter Biden or James Biden. *See* Ex. G.

36. In that request, AFL also requested expedited treatment, noting the intense public interest in these issues. *See id.* at 3–4.

37. On August 17, 2022, NARA sent an e-mail to AFL requesting several clarifications about this request and the two others discussed herein. *See Ex. J.*

38. On August 18, 2022, AFL responded by e-mail to these requests for clarification. *See id.*

39. On August 19, 2022, NARA sent a letter to AFL acknowledging receipt of the FOIA request and assigning it Request Number 2022-0121-F. *See Ex. H.*

40. In that response, NARA stated that searches had been conducted, and that approximately 7,400 pages and 10,096 electronic files had been identified as potentially responsive. *See id.*

41. NARA did not, however, provide AFL any estimate of when it would complete its processing of these records. *See id.*

42. In a separate letter sent on August 19, 2022, NARA also denied AFL’s request for expedited processing. *See Ex. I.*

43. Notwithstanding the intense public scrutiny paid to the issues underlying AFL’s FOIA request, NARA denied the request for expedited treatment after concluding that the FOIA request was not supported by an “urgent need to inform the public about an actual or alleged Federal Government activity,” and the request did not relate to “[a] matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government’s integrity.” *Id.* at 1.

44. As of the date of this Complaint, AFL has received no further response from NARA about its FOIA request.

COUNT I
Violation of FOIA, 5 U.S.C. § 552

45. AFL repeats the foregoing paragraphs as if set forth fully herein.

46. NARA is an agency of the federal government within the meaning of 5 U.S.C. § 552(f).

47. By letters dated August 9, 2022, AFL submitted three FOIA requests to NARA. *See* Exs. A, D, G.

48. AFL's FOIA requests complied with all applicable statutes and regulations.

49. The requested records are not exempt from FOIA pursuant to 5 U.S.C. § 552(b).

50. NARA has failed to respond to AFL's request within the statutory time-period. *See* 5 U.S.C. § 552(a)(6).

51. Accordingly, AFL has exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C).

52. Additionally, each request demonstrated that expedited processing was appropriate under NARA's regulations. Indeed, as AFL demonstrated, there is an "urgent need to inform the public" about the activities of then-Vice President Biden, his family, and the staff of the Office of the Vice President. *See* 36 C.F.R. § 1250.28(a). Similarly, as AFL demonstrated, these requests relate to "matter[s] of widespread

and exceptional media interest” and implicate “public confidence in the Government’s integrity.” *Id.*

53. Yet, NARA failed to comply with FOIA or with its own regulations when it denied these requests for expedited processing.

54. Accordingly, by denying AFL’s requests for expedited treatment, and by failing to release any responsive, non-exempt records, or otherwise offer a reasonable schedule for production, NARA has violated FOIA.

PRAYER FOR RELIEF

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that NARA unlawfully denied AFL’s requests for expedited processing.
- ii. Declare that the records sought by the request, as described in the foregoing paragraphs, must be disclosed pursuant to 5 U.S.C. § 552.
- iii. Order NARA to complete its searches immediately for all records responsive to AFL’s FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of responsive records.
- iv. Order NARA to produce by a date certain all non-exempt records responsive to AFL’s FOIA request.
- v. Award AFL attorneys’ fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E).
- vi. Grant AFL such other and further relief as this Court deems proper.

September 8, 2022

Respectfully submitted,

/s/ Brian J. Field
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/s/ Michael Ding
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D.C. Bar No. 1027252
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Counsel for Plaintiff
America First Legal Foundation

EXHIBIT A



August 9, 2022

Via Email - presidential.materials@nara.gov

ATTN: FOIA

Archival Operations Division – Vice Presidential Collections
National Archives and Records Administration
700 Pennsylvania Ave, NW, Room G7
Washington, DC 20408-0001

**Freedom of Information Act Request: Vice President Biden’s
Communications with Hunter Biden and James Biden**

Dear FOIA Officer:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, prevent executive overreach, protect due process and equal protection, and educate Americans about the individual rights guaranteed under the Constitution and laws of the United States. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend the Constitution and laws of the United States.

To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute information to a national audience through traditional and social media platforms. For example, AFL’s employees regularly appear on radio and on cable and broadcast news programs; our email list contains over 34,000 unique addresses; our Facebook page has over 43,000 followers; our Twitter page has over 18,000 followers and the Twitter page of our Founder and President has over 199,000 followers; and we have another 30,800 followers on GETTR.

611 Pennsylvania Ave SE #231
Washington, DC 20003

I. Requested Records

- A. All communications, including emails and text messages, with Hunter Biden, including, but not limited to, any email sent to, or received from, <hbiden@rosemontseneca.com> or <hbiden@senecaga.com>.
- B. All emails sent to or received from any person with an email address containing “@rosemontseneca.com”, “@senecaga.com”
- C. All communications, including emails and text messages, with James “Jim” Biden, including, but not limited to, any email sent to, or received from, <jbiden@lionhallgp.com>.
- D. All emails sent to or received from any person with an email address containing “@lionhallgp.com”

II. Processing

The National Archives and Records Administration (“NARA”) must comply with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines.¹ If you have any questions or believe further discussions regarding search and processing will facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org.

Also, AFL requests expedited processing of this request. In support thereof, AFL certifies its compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 36 C.F.R. § 1250.28(a), which provides in relevant part:

(a) NARA processes requests and appeals on an expedited basis whenever we determine that one or more of the following criteria exist: ... (3) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion applies only to those requests made by a person primarily engaged in disseminating information to the public); or (4) A matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government’s integrity.

As many federal agencies have acknowledged in granting AFL expedited processing, AFL is primarily engaged in disseminating information so the American people are informed about the activities in which their government is engaging. Herein, there is an urgent need to inform the public regarding actions on the part of a sitting President who was Vice President for eight years and a United States senator for more than 30 years to determine whether he used his public office for private gain or

¹ U.S. Dep’t of Just. (Mar. 15, 2022), <https://tinyurl.com/4duy4r5k>.

for the private gain of his relatives, including his son Hunter Biden and his brother James Biden. This is a matter of pressing national importance.

Our request also meets NARA's regulatory test for expedited processing based on a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence. As already discussed, both requirements are met here, because there has been extensive public interest in Hunter Biden and James Biden's financial dealings,² and because then Vice President Biden's involvement in these dealings clearly impacts the confidence of the public in the government's integrity and in the sitting President of the United States.³ This request seeks to expose that involvement to public inspection, before irreparable harm is done to the nation's interest, in violation of the law.

Accordingly, AFL as an organization engaged in, among other actions, gathering, analyzing, and disseminating information, asserts there is great urgency to inform the public concerning events of intense public interest. That the allegations at hand go directly to public confidence in the integrity of the government further compels that our expedited processing request should be granted.

III. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Michael Ding

Michael Ding

America First Legal Foundation

² Matt Viser et al., *Inside Hunter Biden's Multimillion-Dollar Deals With a Chinese Energy Company*, WASH. POST (Mar. 30, 2022), <https://wapo.st/3A8rjjW>.

³ Emily Crane and Miranda Devine, *Biden Wrote College Recommendation Letters for Kids of Chinese Exec Tied to Hunter*, N.Y. POST (Apr. 6, 2022), <https://bit.ly/3vFlaJy>.

EXHIBIT B



VIA EMAIL

August 19, 2022

Michael Ding
America First Legal Foundation
foia@aflegal.org

Dear Mr. Ding:

This letter is in response to your Freedom of Information Act (FOIA) request dated August 9, 2022 for access to Biden Vice Presidential records pertaining to Vice President Biden's Communications with Hunter Biden and James Biden. Your request was received by the Archival Operations Division on August 9, 2022. FOIA requests for Biden Vice Presidential records are processed and reviewed for access under provisions of the 1978 Presidential Records Act, as amended (PRA) (44 U.S.C. §§ 2201-2209), which incorporates the Freedom of Information Act (5 U.S.C. § 552) in substantial part.

We have performed a search of our collection for Vice Presidential records related to your request and have identified approximately 29,760 email messages of potentially responsive records that must be processed in order to respond to your request. Please keep in mind that these totals are an estimate and that all material processed may not be applicable to your specific topic.

The staff of the Archival Operations Division is currently processing and reviewing FOIA requests that precede your request. To treat everyone equitably, we have placed your request in our Complex queue by the date it was received in our office.

FOIA requests are processed and reviewed for access under provisions of the PRA and FOIA and are subject to the provisions of NARA regulations at 36 C.F.R. § 1270.46, which require that we notify the representatives of the former President and the incumbent President and the former Vice President prior to the release of any Vice Presidential records. Also, it should be noted that documents processed in response to your request may be closed in whole or part in compliance with applicable PRA restrictions and FOIA exemptions.

When processing is complete and the notification period has passed, we will inform you of the availability of the requested records. At that point, you may request copies of these records at a reproduction fee of \$0.80 per page, or you can choose to view these documents in the research room in the National Archives Building where a self-service copier is available for the price of \$0.25 a page.

If you have any questions regarding your FOIA request, please contact our staff at 202-357-5200 or presidential.materials@nara.gov. Your case log number is 2022-0119-F. Please have this number accessible for reference during any future contact concerning this FOIA request.

Sincerely,

A handwritten signature in blue ink, appearing to read "S Oriabure". The signature is fluid and cursive.

STEPHANNIE ORIABURE
Director
Archival Operations Division

EXHIBIT C



VIA EMAIL

August 19, 2022

Michael Ding
America First Legal Foundation
foia@aflegal.org

Dear Mr. Ding:

This letter responds to your request for expedited processing of your August 9, 2022 Freedom of Information Act (FOIA) request seeking all communications with Hunter and James Biden. The Archival Operations Division received your request on August 9, 2022, and we have assigned this request tracking number 2022-0119-F.

The National Archives and Records Administration (NARA) has promulgated regulations providing for expedited processing of requests if the requester demonstrates a compelling need (as defined in statute) or in any case the agency deems appropriate under its regulations. *See* 36 C.F.R. § 1250.28(a). To receive expedited processing under NARA's regulations, the requester must demonstrate at least one of the following:

- 1) A reasonable expectation of an imminent threat to an individual's life or physical safety;
- 2) A reasonable expectation of an imminent loss of a substantial due process right;
- 3) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion applies only to those requests made by a person primarily engaged in disseminating information to the public); or
- 4) A matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity.

Your request raises the third and fourth grounds for expedited processing under NARA's regulations. Based on the argument and evidence presented, we find that your request does not satisfy either basis for expedition.

When evaluating whether a FOIA requester has demonstrated an urgent need to inform the public, courts have considered the following factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001). You have neither shown that your request involves a matter of current exigency to the American public, nor have you demonstrated that processing this request in the non-expedited queue would compromise a significant, recognized interest. President Biden's last term as Vice President concluded on January

20, 2017. Processing the request under NARA's regular timeline will not compromise the public's ability to learn about Biden's actions during the Obama administration.

Nor have you demonstrated widespread and exceptional media interest in communications between the Biden Office of the Vice President and Hunter and James Biden. The courts have found that FOIA requesters demonstrated widespread and exceptional media interest when the request pointed to news articles or other media coverage, from a variety of sources, focused on questions of integrity related to government actions. *See, e.g., Brennan Ctr. for Justice at NYU Sch. of Law v. Dep't of Comm.*, 498 F. Supp. 3d 87, 97-98 (D.D.C. 2020); *Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 436 F. Supp. 3d 354, 361 (D.D.C. 2020). Conversely, a FOIA requester did not satisfy the media-related standard of expedited processing when the request failed to connect the requester's allegations of impropriety with the content of the news articles cited and the subject of the request. *See, e.g., Am. Oversight v. Dep't of Justice*, 292 F. Supp. 3d 501, 508 (D.D.C. 2018); *Am. Civil Liberties Union of N. Cal. v. Dep't of Justice*, No. C 04-4447 PJH, 2005 U.S. Dist. LEXIS 3763, at *37 (N.D. Cal. Mar. 11, 2005).

Of the two news reports you cited, only the *New York Post* article specifically refers to Joseph Biden's actions, but only after his term as Vice President had concluded and before his 2020 presidential campaign began. By exclusively focusing on the actions Biden took as a private citizen, the *New York Post* article does not allege or imply improper government conduct. The *Washington Post* article focuses on the conduct of Hunter Biden, a private citizen who was not serving in any public office during the events depicted, and clearly states that the authors did not find any link between Hunter Biden's business dealings and the actions of Joseph Biden. For these reasons, you have not provided the number, variety, and content of media coverage needed to demonstrate a matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the *government's* integrity.

Nor have you connected the subject of your FOIA request with the allegations of improper government conduct raised and the media coverage you cited. Your request seeks then-Vice President Biden's communications and those of his staff and states that questions about government integrity arise from Joseph Biden's supposed involvement in Hunter and James Biden's business dealings. The news articles you cited do not, however, link those dealings with Joseph Biden's actions as Vice President.

If you have any questions regarding the status of your FOIA request, please contact me directly at 202-357-5403. If you have any questions or concerns about NARA's handling of this expedited request, please feel free to contact NARA's FOIA Officer Joe Scanlon at (301) 837-0583.

If you consider my response to be a denial of this request, you may appeal by writing to the Deputy Archivist of the United States, c/o the Archival Operations Division, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001 or email presidential.materials@nara.gov. Both the letter and the envelope or email subject line should be clearly marked "PRA/FOIA Appeal." To be considered timely, your appeal must be postmarked or electronically submitted within 90 calendar days from the date of this letter.

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison Stephanie Oriabure for assistance at: Archival Operations Division, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001; email at libraries.liaison.nara@nara.gov; telephone at 202-357-5200; or facsimile at 202-357-5941.

You may also contact the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, for assistance. OGIS offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road – OGIS, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in blue ink, appearing to read "S Oriabure".

STEPHANNIE ORIABURE
Director
Archival Operations Division

cc: Joe Scanlon
FOIA Officer, National Archives and Records Administration

EXHIBIT D



August 9, 2022

Via Email - presidential.materials@nara.gov

ATTN: FOIA

Archival Operations Division – Vice Presidential Collections
National Archives and Records Administration
700 Pennsylvania Ave, NW, Room G7
Washington, DC 20408-0001

**Freedom of Information Act Request: Vice President Biden’s Records
Regarding Official Travel and White House Visits by Hunter Biden and
James Biden**

Dear FOIA Officer:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, prevent executive overreach, protect due process and equal protection, and educate Americans about the individual rights guaranteed under the Constitution and laws of the United States. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend the Constitution and laws of the United States.

To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute information to a national audience through traditional and social media platforms. For example, AFL’s employees regularly appear on radio and on cable and broadcast news programs; our email list contains over 34,000 unique addresses; our Facebook page has over 43,000 followers; our Twitter page has over 18,000 followers and the Twitter page of our Founder and President has over 199,000 followers; and we have another 30,800 followers on GETTR.

611 Pennsylvania Ave SE #231
Washington, DC 20003

I. Custodians

- A. Elizabeth Alexander <Elizabeth_Alexander@ovp.eop.gov>
- B. Elizabeth M. Allen <Elizabeth_M_Allen@ovp.eop.gov>
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- EE. Steven J. Ricchetti <steven_j_ricchetti@ovp.eop.gov>
- FF. Evan M. Ryan <Evan_M_Ryan@ovp.eop.gov>
- GG. Gregory C. Schultz <Gregory_C_Schultz@ovp.eop.gov>
- HH. Michael M. Schrum <evan_m_schrum@ovp.eop.gov>
- II. Katie Seighman <Kathlee_Seighman@ovp.eop.gov>
- JJ. Peter A. Selfridge <Peter_A_Selfridge@ovp.eop.gov>
- KK. Michele Smith <Michele_Smith@ovp.eop.gov>
- LL. Kellen C. Suber <Kellen_C_Suber@ovp.eop.gov>
- MM. Ryan S. Swan <Ryan_S_Swan@ovp.eop.gov>
- NN. AnnMarie Tomasini <AnnMarie_Tomasini@ovp.eop.gov>
- OO. Ashley Williams <Ashley_N_Williams@ovp.eop.gov>

II. Requested Records

- A. All photographs of Hunter Biden.
- B. All photographs of James “Jim” Biden.
- C. For the custodians listed above, all communications, including emails and text messages, with Hunter Biden—including, but not limited to, any email sent to, or received from, <hbiden@rosemontseneca.com> or <hbiden@senecaga.com>—regarding official travel, trips, or itineraries.
- D. For the custodians listed above, all communications, including emails and text messages, with Hunter Biden—including, but not limited to, any email sent to, or received from, <hbiden@rosemontseneca.com> or <hbiden@senecaga.com>—regarding meetings, White House visits, tours, or the White House Worker and Visitor Entry System (“WAVE”).
- E. For the custodians listed above, all communications, including emails and text messages, with James “Jim” Biden—including, but not limited to, any email sent to, or received from, <jbiden@lionhallgp.com>—regarding official travel, trips, or itineraries.
- F. For the custodians listed above, all communications, including emails and text messages, with James “Jim” Biden—including, but not limited to, any email sent to, or received from, <jbiden@lionhallgp.com>—regarding meetings, White House visits, tours, or the White House Worker and Visitor Entry System (“WAVE”).

III. Processing

The National Archives and Records Administration (“NARA”) must comply with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines.¹ If you have any questions or believe further discussions regarding search and processing will facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org.

Also, AFL requests expedited processing of this request. In support thereof, AFL certifies its compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 36 C.F.R. § 1250.28(a), which provides in relevant part:

¹ U.S. Dep’t of Just. (Mar. 15, 2022), <https://tinyurl.com/4duy4r5k>.

(a) NARA processes requests and appeals on an expedited basis whenever we determine that one or more of the following criteria exist: ... (3) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion applies only to those requests made by a person primarily engaged in disseminating information to the public); or (4) A matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity.

As many federal agencies have acknowledged in granting AFL expedited processing, AFL is primarily engaged in disseminating information so the American people are informed about the activities in which their government is engaging. Herein, there is an urgent need to inform the public regarding actions on the part of a sitting President who was Vice President for eight years and a United States senator for more than 30 years to determine whether he used his public office for private gain or for the private gain of his relatives, including his son Hunter Biden and his brother James Biden. This is a matter of pressing national importance.

Our request also meets NARA's regulatory test for expedited processing based on a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence. As already discussed, both requirements are met here, because there has been extensive public interest in Hunter Biden and James Biden's financial dealings,² and because then Vice President Biden's involvement in these dealings clearly impacts the confidence of the public in the government's integrity and in the sitting President of the United States.³ This request seeks to expose that involvement to public inspection, before irreparable harm is done to the nation's interest, in violation of the law.

Accordingly, AFL as an organization engaged in, among other actions, gathering, analyzing, and disseminating information, asserts there is great urgency to inform the public concerning events of intense public interest. That the allegations at hand go directly to public confidence in the integrity of the government further compels that our expedited processing request should be granted.

IV. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF

² Matt Viser et al., *Inside Hunter Biden's Multimillion-Dollar Deals With a Chinese Energy Company*, WASH. POST (Mar. 30, 2022), <https://wapo.st/3A8rjjW>.

³ Emily Crane and Miranda Devine, *Biden Wrote College Recommendation Letters for Kids of Chinese Exec Tied to Hunter*, N.Y. POST (Apr. 6, 2022), <https://bit.ly/3vFlaJy>.

format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Michael Ding

Michael Ding

America First Legal Foundation

EXHIBIT E



VIA EMAIL

August 19, 2022

Michael Ding
America First Legal Foundation
foia@aflegal.org

Dear Mr. Ding:

This letter is in response to your Freedom of Information Act (FOIA) request dated August 9, 2022 for access to Biden Vice Presidential records pertaining to Vice President Biden's records regarding official travel and White House visits by Hunter Biden and James Biden. Your request was received by the Archival Operations Division on August 9, 2022. FOIA requests for Biden Vice Presidential records are processed and reviewed for access under provisions of the 1978 Presidential Records Act, as amended (PRA) (44 U.S.C. §§ 2201-2209), which incorporates the Freedom of Information Act (5 U.S.C. § 552) in substantial part.

We have performed a search of our collection for Vice Presidential records related to your request and have identified approximately 32,403 images and 6,347 email messages of potentially responsive records that must be processed in order to respond to your request. Please keep in mind that these totals are an estimate and that all material processed may not be applicable to your specific topic.

The staff of the Archival Operations Division is currently processing and reviewing FOIA requests that precede your request. To treat everyone equitably, we have placed your request in our Complex queue by the date it was received in our office.

FOIA requests are processed and reviewed for access under provisions of the PRA and FOIA and are subject to the provisions of NARA regulations at 36 C.F.R. § 1270.46, which require that we notify the representatives of the former President and the incumbent President and the former Vice President prior to the release of any Vice Presidential records. Also, it should be noted that documents processed in response to your request may be closed in whole or part in compliance with applicable PRA restrictions and FOIA exemptions.

When processing is complete and the notification period has passed, we will inform you of the availability of the requested records. At that point, you may request copies of these records at a reproduction fee of \$0.80 per page, or you can choose to view these documents in the research room in the National Archives Building where a self-service copier is available for the price of \$0.25 a page.

If you have any questions regarding your FOIA request, please contact our staff at 202-357-5200 or presidential.materials@nara.gov. Your case log number is 2022-0120-F. Please have this number accessible for reference during any future contact concerning this FOIA request.

Sincerely,

A handwritten signature in blue ink, appearing to read "S Oriabure". The signature is written in a cursive, flowing style.

STEPHANNIE ORIABURE
Director
Archival Operations Division

EXHIBIT F



VIA EMAIL

August 19, 2022

Michael Ding
America First Legal Foundation
foia@aflegal.org

Dear Mr. Ding:

This letter responds to your request for expedited processing of your August 9, 2022 Freedom of Information Act (FOIA) request seeking all communications between selected custodians and Hunter and James Biden related to White House meetings, visits, tours, and official travel and all photographs of Hunter and James Biden. The Archival Operations Division received your request on August 9, 2022, and we have assigned this request tracking number 2022-0120-F.

The National Archives and Records Administration (NARA) has promulgated regulations providing for expedited processing of requests if the requester demonstrates a compelling need (as defined in statute) or in any case the agency deems appropriate under its regulations. *See* 36 C.F.R. § 1250.28(a). To receive expedited processing under NARA's regulations, the requester must demonstrate at least one of the following:

- 1) A reasonable expectation of an imminent threat to an individual's life or physical safety;
- 2) A reasonable expectation of an imminent loss of a substantial due process right;
- 3) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion applies only to those requests made by a person primarily engaged in disseminating information to the public); or
- 4) A matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity.

Your request raises the third and fourth grounds for expedited processing under NARA's regulations. Based on the argument and evidence presented, we find that your request does not satisfy either basis for expedition.

When evaluating whether a FOIA requester has demonstrated an urgent need to inform the public, courts have considered the following factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001). You have neither shown that your request involves a matter of current exigency to the American public, nor have you demonstrated that processing this request in the non-expedited queue would compromise a significant, recognized interest. President Biden's last term as Vice President concluded on January

20, 2017. Processing the request under NARA's regular timeline will not compromise the public's ability to learn about Biden's actions during the Obama administration.

Nor have you demonstrated widespread and exceptional media interest in communications between then-Vice President Biden's staff and Hunter and James Biden regarding official travel and White House meetings, visits, and tours and in photographs of Hunter and James Biden. The courts have found that FOIA requesters demonstrated widespread and exceptional media interest when the request pointed to news articles or other media coverage, from a variety of sources, focused on questions of integrity related to government actions. *See, e.g., Brennan Ctr. for Justice at NYU Sch. of Law v. Dep't of Comm.*, 498 F. Supp. 3d 87, 97-98 (D.D.C. 2020); *Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 436 F. Supp. 3d 354, 361 (D.D.C. 2020). Conversely, a FOIA requester did not satisfy the media-related standard of expedited processing when the request failed to connect the requester's allegations of impropriety with the content of the news articles cited and the subject of the request. *See, e.g., Am. Oversight v. Dep't of Justice*, 292 F. Supp. 3d 501, 508 (D.D.C. 2018); *Am. Civil Liberties Union of N. Cal. v. Dep't of Justice*, No. C 04-4447 PJH, 2005 U.S. Dist. LEXIS 3763, at *37(N.D. Cal. Mar. 11, 2005).

Of the two news reports you cited, only the *New York Post* article specifically refers to Joseph Biden's actions, but only after his term as Vice President had concluded and before his 2020 presidential campaign began. By exclusively focusing on the actions Biden took as a private citizen, the *New York Post* article does not allege or imply improper government conduct. The *Washington Post* article focuses on the conduct of Hunter Biden, a private citizen who was not serving in any public office during the events depicted, and clearly states that the authors did not find any link between Hunter Biden's business dealings and the actions of Joseph Biden. For these reasons, you have not provided the number, variety, and content of media coverage needed to demonstrate a matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the *government's* integrity.

Nor have you connected the subject of your FOIA request with the allegations of improper government conduct raised and the media coverage you cited. Your request seeks communications of then-Vice President Biden's staff and Vice Presidential photographs and states that questions about government integrity arise from Joseph Biden's supposed involvement in Hunter and James Biden's business dealings. The news articles you cited do not, however, link those dealings with Joseph Biden's actions as Vice President.

If you have any questions regarding the status of your FOIA request, please contact me directly at 202-357-5403. If you have any questions or concerns about NARA's handling of this expedited request, please feel free to contact NARA's FOIA Officer Joe Scanlon at (301) 837-0583.

If you consider my response to be a denial of this request, you may appeal by writing to the Deputy Archivist of the United States, c/o the Archival Operations Division, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001 or email presidential.materials@nara.gov. Both the letter and the envelope or email subject line should be clearly marked "PRA/FOIA Appeal." To be considered timely, your appeal must be postmarked or electronically submitted within 90 calendar days from the date of this letter.

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison Stephanie Oriabure for assistance at: Archival Operations Division, National Archives and Records

Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001; email at libraries.liaison.nara.gov; telephone at 202-357-5200; or facsimile at 202-357-5941.

You may also contact the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, for assistance. OGIS offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road - OGIS, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



STEPHANIE ORIABURE

Director

Archival Operations Division

cc: Joe Scanlon

FOIA Officer, National Archives and Records Administration

EXHIBIT G



August 9, 2022

Via Email - presidential.materials@nara.gov

ATTN: FOIA

Archival Operations Division – Vice Presidential Collections
National Archives and Records Administration
700 Pennsylvania Ave, NW, Room G7
Washington, DC 20408-0001

**Freedom of Information Act Request: Vice President Biden’s Records
Regarding Biden Family’s Foreign Business Dealings**

Dear FOIA Officer:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to promote the rule of law, prevent executive overreach, protect due process and equal protection, and educate Americans about the individual rights guaranteed under the Constitution and laws of the United States. Our mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and media, including social media platforms, all to educate the public and to keep government officials accountable for their duty to faithfully execute, protect, and defend the Constitution and laws of the United States.

To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute information to a national audience through traditional and social media platforms. For example, AFL’s employees regularly appear on radio and on cable and broadcast news programs; our email list contains over 34,000 unique addresses; our Facebook page has over 43,000 followers; our Twitter page has over 18,000 followers and the Twitter page of our Founder and President has over 199,000 followers; and we have another 30,800 followers on GETTR.

611 Pennsylvania Ave SE #231
Washington, DC 20003

I. Requested Records

- A. All records relating to the extensive financial relationships between Hunter and James Biden and their deals in Ukraine. Suggested search terms include:
- a. “Devon Archer”
 - b. “Elena Baturina” or “Yelena Baturina”
 - c. “Tony Bobulinski”
 - d. “Anatoliy Danylenko”
 - e. “Chris Heinz”
 - f. “Oleh Makhnitskyi”
 - g. “Kenges Rakishev”
 - h. “Viktor Shokin”
 - i. “Rob Walker” or “Robinson Walker”
 - j. “Vitaly Yarema”
 - k. “Mykoloa Zlochevsky”
 - l. “Belair”
 - m. “Bohai Harvest” or “BHR”
 - n. “Burisma”
 - o. “Oldaker”
 - p. “Rosemont Seneca” or “Seneca Global Advisors”
- B. All records relating to the extensive financial relationships between Hunter and James Biden and Chinese nationals connected to the communist regime. Suggested search terms include:
- a. “Jiaqi Bao”
 - b. “Gongwen Dong”
 - c. “James Gilliar”
 - d. “Patrick Ho”
 - e. “Ye Jianming”
 - f. “Rob Walker” or “Robinson Walker”
 - g. “Mervyn Yan”
 - h. “Cathay Bank”
 - i. “CEFC”
 - j. “Coldharbour Capital”

- k. “Hudson West”
- l. “KMG”
- m. “Lion Hall”
- n. “Northern International”
- o. “Owasco”
- p. “State Energy HK”
- q. “Wells Fargo Clearing Services”

II. Processing

The National Archives and Records Administration (“NARA”) must comply with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines.¹ If you have any questions or believe further discussions regarding search and processing will facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at FOIA@aflegal.org.

Also, AFL requests expedited processing of this request. In support thereof, AFL certifies its compelling need for expedited processing under 5 U.S.C. § 552(a)(6)(E) and 36 C.F.R. § 1250.28(a), which provides in relevant part:

(a) NARA processes requests and appeals on an expedited basis whenever we determine that one or more of the following criteria exist: ... (3) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion applies only to those requests made by a person primarily engaged in disseminating information to the public); or (4) A matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government’s integrity.

As many federal agencies have acknowledged in granting AFL expedited processing, AFL is primarily engaged in disseminating information so the American people are informed about the activities in which their government is engaging. Herein, there is an urgent need to inform the public regarding actions on the part of a sitting President who was Vice President for eight years and a United States senator for more than 30 years to determine whether he used his public office for private gain or for the private gain of his relatives, including his son Hunter Biden and his brother James Biden. This is a matter of pressing national importance.

Our request also meets NARA’s regulatory test for expedited processing based on a matter of widespread and exceptional media interest in which there exist possible

¹ U.S. Dep’t of Just. (Mar. 15, 2022), <https://tinyurl.com/4duy4r5k>.

questions about the government's integrity that affect public confidence. As already discussed, both requirements are met here, because there has been extensive public interest in Hunter Biden and James Biden's financial dealings,² and because then Vice President Biden's involvement in these dealings clearly impacts the confidence of the public in the government's integrity and in the sitting President of the United States.³ This request seeks to expose that involvement to public inspection, before irreparable harm is done to the nation's interest, in violation of the law.

Accordingly, AFL as an organization engaged in, among other actions, gathering, analyzing, and disseminating information, asserts there is great urgency to inform the public concerning events of intense public interest. That the allegations at hand go directly to public confidence in the integrity of the government further compels that our expedited processing request should be granted.

IV. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis. If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ Michael Ding

Michael Ding

America First Legal Foundation

² Matt Viser et al., *Inside Hunter Biden's Multimillion-Dollar Deals With a Chinese Energy Company*, WASH. POST (Mar. 30, 2022), <https://wapo.st/3A8rjjW>.

³ Emily Crane and Miranda Devine, *Biden Wrote College Recommendation Letters for Kids of Chinese Exec Tied to Hunter*, N.Y. POST (Apr. 6, 2022), <https://bit.ly/3vFlaJy>.

EXHIBIT H



VIA EMAIL

August 19, 2022

Michael Ding
America First Legal Foundation
foia@aflegal.org

Dear Mr. Ding:

This letter is in response to your Freedom of Information Act (FOIA) request dated August 9, 2022 for access to Biden Vice Presidential records pertaining to Vice President Biden's records regarding Biden Family's foreign business dealings. Your request was received by the Archival Operations Division on August 9, 2022. FOIA requests for Biden Vice Presidential records are processed and reviewed for access under provisions of the 1978 Presidential Records Act, as amended (PRA) (44 U.S.C. §§ 2201-2209), which incorporates the Freedom of Information Act (5 U.S.C. § 552) in substantial part.

We have performed a search of our collection for Vice Presidential records related to your request and have identified approximately 7,400 pages and 10,096 electronic files of potentially responsive records that must be processed in order to respond to your request. Please keep in mind that these totals are an estimate and that all material processed may not be applicable to your specific topic.

The staff of the Archival Operations Division is currently processing and reviewing FOIA requests that precede your request. To treat everyone equitably, we have placed your request in our Complex queue by the date it was received in our office.

FOIA requests are processed and reviewed for access under provisions of the PRA and FOIA and are subject to the provisions of NARA regulations at 36 C.F.R. § 1270.46, which require that we notify the representatives of the former President and the incumbent President and the former Vice President prior to the release of any Vice Presidential records. Also, it should be noted that documents processed in response to your request may be closed in whole or part in compliance with applicable PRA restrictions and FOIA exemptions.

When processing is complete and the notification period has passed, we will inform you of the availability of the requested records. At that point, you may request copies of these records at a reproduction fee of \$0.80 per page, or you can choose to view these documents in the research room in the National Archives Building where a self-service copier is available for the price of \$0.25 a page.

If you have any questions regarding your FOIA request, please contact our staff at 202-357-5200 or presidential.materials@nara.gov. Your case log number is 2022-0121-F. Please have this number accessible for reference during any future contact concerning this FOIA request.

Sincerely,

A handwritten signature in blue ink, appearing to read "S Oriabure". The signature is written in a cursive style with a large initial "S".

STEPHANNIE ORIABURE
Director
Archival Operations Division

EXHIBIT I



VIA EMAIL

August 19, 2022

Michael Ding
America First Legal Foundation
foia@aflegal.org

Dear Mr. Ding:

This letter responds to your request for expedited processing of your August 9, 2022 Freedom of Information Act (FOIA) request seeking all records related to Hunter and James Biden's financial relationships including deals in Ukraine and connections with Chinese nationals. The Archival Operations Division received your request on August 9, 2022, and we have assigned this request tracking number 2022-0121-F.

The National Archives and Records Administration (NARA) has promulgated regulations providing for expedited processing of requests if the requester demonstrates a compelling need (as defined in statute) or in any case the agency deems appropriate under its regulations. *See* 36 C.F.R. § 1250.28(a). To receive expedited processing under NARA's regulations, the requester must demonstrate at least one of the following:

- 1) A reasonable expectation of an imminent threat to an individual's life or physical safety;
- 2) A reasonable expectation of an imminent loss of a substantial due process right;
- 3) An urgent need to inform the public about an actual or alleged Federal Government activity (this criterion applies only to those requests made by a person primarily engaged in disseminating information to the public); or
- 4) A matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity.

Your request raises the third and fourth grounds for expedited processing under NARA's regulations. Based on the argument and evidence presented, we find that your request does not satisfy either basis for expedition.

When evaluating whether a FOIA requester has demonstrated an urgent need to inform the public, courts have considered the following factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001). You have neither shown that your request involves a matter of current exigency to the American public, nor have you demonstrated that processing this request in the non-expedited queue would compromise a significant, recognized interest. President Biden's last term as Vice President concluded on January

20, 2017. Processing the request under NARA's regular timeline will not compromise the public's ability to learn about Biden's actions during the Obama administration.

Nor have you demonstrated widespread and exceptional media interest in the financial relationships of Hunter and James Biden. The courts have found that FOIA requesters demonstrated widespread and exceptional media interest when the request pointed to news articles or other media coverage, from a variety of sources, focused on questions of integrity related to government actions. *See, e.g., Brennan Ctr. for Justice at NYU Sch. of Law v. Dep't of Comm.*, 498 F. Supp. 3d 87, 97-98 (D.D.C. 2020); *Citizens for Responsibility & Ethics in Wash. v. Dep't of Justice*, 436 F. Supp. 3d 354, 361 (D.D.C. 2020). Conversely, a FOIA requester did not satisfy the media-related standard of expedited processing when the request failed to connect the requester's allegations of impropriety with the content of the news articles cited and the subject of the request. *See, e.g., Am. Oversight v. Dep't of Justice*, 292 F. Supp. 3d 501, 508 (D.D.C. 2018); *Am. Civil Liberties Union of N. Cal. v. Dep't of Justice*, No. C 04-4447 PJH, 2005 U.S. Dist. LEXIS 3763, at *37 (N.D. Cal. Mar. 11, 2005).

Of the two news reports you cited, only the *New York Post* article specifically refers to Joseph Biden's actions, but only after his term as Vice President had concluded and before his 2020 presidential campaign began. By exclusively focusing on the actions Biden took as a private citizen, the *New York Post* article does not allege or imply improper government conduct. The *Washington Post* article focuses on the conduct of Hunter Biden, a private citizen who was not serving in any public office during the events depicted, and clearly states that the authors did not find any link between Hunter Biden's business dealings and the actions of Joseph Biden. For these reasons, you have not provided the number, variety, and content of media coverage needed to demonstrate a matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the *government's* integrity.

Nor have you connected the subject of your FOIA request with the allegations of improper government conduct raised and the media coverage you cited. Your request seeks records related to Hunter and James Biden's financial relationships and states that questions about government integrity arise from Joseph Biden's supposed involvement in their business dealings. The news articles you cited do not, however, link those dealings with Joseph Biden's actions as Vice President.

If you have any questions regarding the status of your FOIA request, please contact me directly at 202-357-5403. If you have any questions or concerns about NARA's handling of this expedited request, please feel free to contact NARA's FOIA Officer Joe Scanlon at (301) 837-0583.

If you consider my response to be a denial of this request, you may appeal by writing to the Deputy Archivist of the United States, c/o the Archival Operations Division, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001 or email presidential.materials@nara.gov. Both the letter and the envelope or email subject line should be clearly marked "PRA/FOIA Appeal." To be considered timely, your appeal must be postmarked or electronically submitted within 90 calendar days from the date of this letter.

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison Stephannie Oriabure for assistance at: Archival Operations Division, National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room G-7, Washington, DC 20408-0001; email at libraries.liaison.nara@nara.gov; telephone at 202-357-5200; or facsimile at 202-357-5941.

You may also contact the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, for assistance. OGIS offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road – OGIS, College Park, MD 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in blue ink, appearing to read "S Oriabure".

STEPHANNIE ORIABURE
Director
Archival Operations Division

cc: Joe Scanlon
FOIA Officer, National Archives and Records Administration

EXHIBIT J



AFL FOIA <foia@aflegal.org>

Freedom of Information Request

Presidential Materials Division <Presidential.Materials@nara.gov>
To: Presidential Materials Division <Presidential.Materials@nara.gov>
Cc: AFL FOIA <foia@aflegal.org>

Fri, Aug 26, 2022 at 9:56 AM

Good morning Mr. Ding,

Thank you for contacting us regarding your FOIA request 2022-0119-F. I have updated your request to include the additions for Points A and B.

Sincerely,
Jessica Owens
Archivist
Archival Operations Division

On Monday, August 22, 2022 at 4:46:40 PM UTC-4 AFL FOIA wrote:

Dear Ms. Yallouris,

I would like to supplement request 2022-0119-F with the following information.

For Point A, please also include rhb@rspdc.com as an additional email address for Hunter Biden.

For Point B, please also include any person with an email address containing "@rspdc.com".

Thank you!

Michael Ding

On Fri, Aug 19, 2022 at 9:38 AM Presidential Materials Division <Presidential.Materials@nara.gov> wrote:

Dear Mr. Ding:

Thank you for the additional information. I will add this to your case files.

Attached please find the first set of letters in response to your FOIA request for Vice President Biden's Communications with Hunter Biden and James Biden. The letters include our response to your request for expedited processing and our initial response for the records you requested which provides your queue placement. We will notify you regarding the availability of the Biden Vice Presidential records when processing and the required Presidential Records Act notification is complete. I will send our official response and letters for your remaining requests in separate emails.

For your reference, I have included your case log numbers for each request below:

- 1.) 2022-0119-F - Vice President Biden's Communications with Hunter Biden and James Biden
- 2.) 2022-0120-F - Vice President Biden's Records Regarding Official Travel and White House Visits by Hunter Biden and James Biden
- 3.) 2022-0121-F - Vice President Biden's Records Regarding Biden Family's Foreign Business Dealings

If you have any questions, please let us know.

Sincerely,

Anna Yallouris
Archivist
Archival Operations Division

On Thursday, August 18, 2022 at 1:28:40 AM UTC-4 AFL FOIA wrote:

Dear Ms. Yallouris,

I appreciate your requests for clarification regarding our three FOIA requests for Biden Vice Presidential Records.

For our first requests, "Vice President Biden's Communications with Hunter Biden and James Biden," we are requesting all communications with OVP staff, including Vice President Biden.

For our second request, "Vice President Biden's Records Regarding Official Travel and White House Visits by Hunter Biden and James Biden," you are correct that Points C-F are also captured in the first request. However, to the degree that NARA's response to our request will be made on a rolling basis, we would prefer the prioritization of the records responsive to these more narrow requests.

For our third request, "Vice President Biden's Records Regarding Biden Family's Foreign Business Dealings," we would like you to exclude publicly available emails such as listservs, news articles, newsletters, and other publications. However, we would not like you to exclude any responsive records in which OVP staff, including Vice President Biden, forwards or comments on a publicly available news article in a communication, merely because a publicly available news article is included in the email thread.

Would you please provide us with your tracking codes for each of these FOIA requests?

Thank you,

Michael Ding
America First Legal Foundation

On Wed, Aug 17, 2022 at 11:21 AM Presidential Materials Division <Presidential.Materials@nara.gov> wrote:

Dear Mr. Ding:

Thank you for your recent FOIA requests for Biden Vice Presidential Records. We are in the processing of responding to your expedited requests and have a few questions.

For your first request, "Vice President Biden's Communications with Hunter Biden and James Biden", are you requesting all communications between Vice President Biden and Hunter or James Biden or all communications with OVP staff including Vice President Biden? If you are requesting all OVP communications for this first request, then the communications requested in Points C-F from your second request, "Vice President Biden's Records Regarding Official Travel and White House Visits by Hunter Biden and James Biden," would be already captured in the first request.

Also, regarding your third request, "Vice President Biden's Records Regarding Biden Family's Foreign Business Dealings," would you like us to exclude publicly available emails such as listservs, news articles, newsletters, and other publications?

Please let us know how you would like us to proceed. If you have any questions, feel free to let me know.

Sincerely,

Anna Yallouris
Archivist
Archival Operations Division

On Tuesday, August 9, 2022 at 5:05:42 PM UTC-4 AFL FOIA wrote:

Good afternoon,

Please see attached FOIA request for records from the Office of Vice President Biden regarding communications with Hunter Biden and James Biden.

Thank you,

Michael Ding
America First Legal Foundation

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Under 5 § U.S.C. 552, Defendant is required to release all non-exempt records responsive to Plaintiff’s FOIA request.

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ JURY DEMAND:	Check YES only if demanded in complaint YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	If yes, please complete related case form
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DATE: 09/08/2022	SIGNATURE OF ATTORNEY OF RECORD /s/ Brian J. Field
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

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

AMERICA FIRST LEGAL FOUNDATION,

Plaintiff

v.

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION,

Defendant

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Civil Action No.: 22-2713

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
700 Pennsylvania Ave., NW
Washington, DC 20408

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

BRIAN J. FIELD
SCHAERR | JAFFE LLP
1717 K Street NW
Suite 900
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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

AMERICA FIRST LEGAL FOUNDATION,

Plaintiff

v.

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION,

Defendant

Civil Action No.: 22-2713

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Matthew M. Graves, U.S. Attorney for the District of Columbia
U.S. Attorney's Office
Attn: Civil Process Clerk
601 D Street, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

BRIAN J. FIELD
SCHAERR | JAFFE LLP
1717 K Street NW
Suite 900
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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

AMERICA FIRST LEGAL FOUNDATION,

Plaintiff

v.

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION,

Defendant

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Civil Action No.: 22-2713

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Merrick B. Garland, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

BRIAN J. FIELD
SCHAERR | JAFFE LLP
1717 K Street NW
Suite 900
Washington, DC 20006

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk