


STATE OF NORTH CAROLINA FILED IN THE GENERAL COURT OF JUSTICE
ORANGE COUNTY SUPERIOR COURT DIVISION

2022 APR 18 A 11:57

CVS

US RIGHT TO KNOW,
Plaintiff

ORANGE CO., N.C.

BY 

VERIFIED COMPLAINT
(Public Records Act)

v.

THE UNIVERSITY OF NORTH
CAROLINA AT CHAPEL HILL,
Defendant

Plaintiff, complaining of defendant, allege and say:

INTRODUCTION AND PUBLIC INTEREST

US Right to Know, an investigative research group that promotes transparency for public health, has been investigating the origins of COVID-19 and the virus that causes it. Its investigation has led them to request public records from the University of North Carolina at Chapel Hill regarding the work of Dr. Ralph Baric and his associations with the Wuhan Institute of Virology. The subject matter of this complaint is of great public interest, given the nearly one million American lives that have been lost because of COVID-19.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff US Right to Know is a California nonprofit corporation that has been recognized as an exempt 501(c)(3) organization by the Internal Revenue Service. Gary Ruskin is the Executive Director of US Right to Know. US Right to Know focuses on investigative research and promotes transparency on matters of public health.

2. Defendant The University of North Carolina at Chapel Hill (hereinafter “the University”) is a state university that is a member institution of the University of North Carolina System.
3. The action is brought in accordance with N.C. Gen. Stat. § 132-1, *et seq.*
4. Subject matter and personal jurisdiction rests in Superior Court, Orange County.
5. Venue is proper in Superior Court, Orange County.

FACTS & BACKGROUND

6. The allegations made in paragraphs 1 through 5 are incorporated herein by reference.
7. On July 2, 2020, plaintiff submitted a public records request to the University requesting records regarding Dr. Ralph Baric (hereinafter Dr. Baric) and his work with the Wuhan Institute of Virology, among other matters. This request is attached as Exhibit A.
8. On July 30, 2020, plaintiff submitted an updated public records request, which updated the search terms for the July 2, 2020 request. This request is attached as Exhibit B.
9. Initially the search system indicated that there were 3.36 GB of records, which was estimated to be over 336,000 pages of documents. Most of these records were not turned over to US Right to Know.
10. The University provided only six pages of responsive documents from a critical time period concerning the origins of COVID-19 (March 20, 2019 to January 9, 2020).
11. The University indicated that of the 86,934 pages that were finally pulled in response to this request, many of them were not provided as they were subject to the N.C. Gen. Stat. § 116-43.17 (2020) university research exemption.
12. Upon information and belief, the University may not have provided all attachments to all emails to this request.

13. On November 26, 2020, plaintiff submitted a public records request to the University requesting records regarding the work of Dr. Lishan Su. This request is attached as Exhibit C.
14. The University indicated that 81 pages were pulled in response to the November 26, 2020 request, that 31 were produced, 3 were duplicates, and 47 pages were exempt as subject to N.C. Gen. Stat. § 116-43.17.
15. On January 26, 2021, another request was made to the University by plaintiff for records of Dr. Baric's work. This request is attached as Exhibit D.
16. The University indicated that 969 pages were responsive to that request, and 453 were produced, while 352 were exempt as subject to N.C. Gen. Stat. § 116-43.17, 7 were duplicate, 7 were confidential education records, and 150 were deemed non-responsive.
17. On February 17, 2021, a request was made by plaintiff to the University for records regarding Ms. Toni Baric. This request is attached as Exhibit E.
18. The University indicated that only 4 pages of documents were responsive to this request.
19. On February 19, 2021, a request was made by plaintiff to the University for additional records regarding Dr. Baric. This request is attached as Exhibit F.
20. The University indicated that 652 pages were pulled relevant to this request, that 18 were responsive and provided, that 472 were subject to N.C. Gen. Stat. § 116-43.17, that 27 were education records, that 6 were confidential personnel records, and that 129 were deemed non-responsive.
21. On October 6, 2021, plaintiff requested from the University various documents and records concerning certain NIH grants and programs. This request is attached as Exhibit G.

22. The University provided no records for this request to plaintiff.
23. On October 8, 2021, plaintiff requested from the University records relating to Dr. Baric's work. This request is attached as Exhibit H.
24. The University provided 24 pages to plaintiff in response to this request.

CLAIM #1 – Public Records Act

25. The allegations contained in paragraphs 1 through 24 are incorporated herein by reference.
26. N.C. Gen. Stat. § 132-1 (2020) defines public records as “all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.”
27. The Public Records Act is broad, and encompasses virtually all records of an agency unless otherwise exempted from the Act.
28. Plaintiff made the above public records requests pursuant to Chapter 132 of the General Statutes (the Public Record Act).
29. The University was the custodian of those records.


30. A vast number of the records that were requested were withheld by the University by claiming that the records were subject to a research exemption pursuant to N.C. Gen. Stat. § 116-43.17.
31. Furthermore, it seems unlikely that so few relevant records exist in regards to many of the public records request made by US Right to Know, including the sparsity of records identified in Paragraph 10.
32. Uncovering the origins of SARS-CoV-2, the virus that causes COVID-19, is of great interest and importance to the public.
33. Because of the large number of responsive documents that have been withheld pursuant to N.C. Gen. Stat. § 116-43.17, plaintiff believes that the University may be interpreting the exemption in an overly broad manner.
34. There are documents plaintiff is in possession of that were obtained from other agencies that meet the criteria of records requested of the University, but yet were not provided by the University in violation of the Public Records Act.
35. It would be reasonable and in the best interest of justice for the University to submit to this Honorable Court, for *in camera* review, the documents that the University has deemed to fall under N.C. Gen. Stat. § 116-43.17 or are otherwise privileged so that the Court may determine whether the documents are subject to disclosure pursuant to the Public Records Act.
36. It would also be reasonable and in the best interest of justice for the University to demonstrate to the Court that its searches have been complete, proper, and thorough and have met the requirements of the Public Records Act, and whether any processing errors may have led to the failure to disclose records to US Right to Know.

BASED ON THE FOREGOING, PLAINTIFF RESPECTFULLY PRAYS THE COURT THAT:

1. The Court order the University to comply with the Public Records Act; and
2. The Court order the University to provide, to the Court, all records responsive to plaintiff's requests so that the Court may determine, in camera, whether such records must be released pursuant to the Public Records Act; and
3. The Court make a determination whether the searches by the University were complete, proper, and thorough, and not riddled with processing errors; and
4. The costs of this action, including any attorney fees allowable by law, be taxed against Defendant; and
5. Any other relief the Court deems just and proper.

RESPECTFULLY SUBMITTED this 7th day of April, 2022.

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[VERIFICATION ON FOLLOWING PAGE]

VERIFICATION AFFIDAVIT

I, Gary Ruskin, depose and say that I have reviewed and read the foregoing verified complaint, and that the contents thereof are true of my own personal knowledge, and as to those matters about which I have no personal knowledge and are stated upon information and belief, I believe them to be true.



Gary Ruskin
Executive Director
US Right to Know

Subscribed to and sworn before me,
this the _____ Day of _____, 2022.

SEAL

Notary Public
My Commission Expires: _____

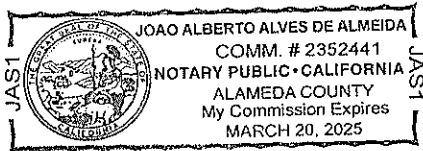
**PLS SEE
THE ATTACHED**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of ALAMEDA

Subscribed and sworn to (or affirmed) before me on this 7th
day of APRIL, 2022, by GARY RUSKIN

proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.



(Seal)

Signature

A handwritten signature in black ink, appearing to read 'Joao Alberto Alves de Almeida', written over a horizontal line.