

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

America First Legal Foundation v. Centers for Disease Control and Prevention

America First Legal Found. · No. 22-cv-00978 (APM) · Decided June 15, 2026

SUMMARY

The United States District Court for the District of Columbia partially granted and partially denied cross-motions for summary judgment in a FOIA action concerning CDC records about COVID-19-related misinformation and disinformation on social media. The court upheld withholdings under FOIA Exemption 5 and upheld Exemption 4 withholdings concerning BrandLift materials, but held that CrowdTangle materials were not sufficiently commercial or confidential to qualify for Exemption 4 protection.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Amit P. Mehta
JURISDICTION	United States District Court for the District of Columbia
DECIDED	June 15, 2026
DOCKET	22-cv-00978 (APM)
DISPOSITION	other
PROCEDURAL POSTURE	Cross-motions for summary judgment in a Freedom of Information Act action challenging the CDC's withholding of responsive records under FOIA Exemptions 4 and 5.
STANDARD OF REVIEW	On summary judgment in a FOIA case, the agency bears the burden of showing that an exemption applies and that disclosure would foreseeably harm an interest protected by the exemption. Summary judgment may be based on agency declarations that describe the documents and withholding justifications with reasonably specific detail, logically connect the withheld information to the exemption, and are not controverted by contrary evidence or evidence of bad faith.
PRECEDENTIAL VALUE	Published district court memorandum opinion
PARTIES	America First Legal Foundation v. Centers for Disease Control and Prevention

TOPICS

summary judgment

administrative law

judicial review of agency action

civil procedure

first amendment

PRACTICE AREAS

administrative law

freedom of information

civil procedure

QUESTIONS PRESENTED

1. Whether the CDC properly withheld meeting agendas and meeting-conclusion summaries under FOIA Exemption 5's deliberative-process privilege.
2. Whether the CDC properly withheld portions of Meta's BrandLift records under FOIA Exemption 4.
3. Whether the CDC properly withheld CrowdTangle reports under FOIA Exemption 4.
4. Whether allegations of unlawful or unauthorized agency conduct create a government-misconduct exception to FOIA Exemptions 4 or 5.

HOLDINGS

1. The CDC properly withheld the challenged Exemption 5 materials because the meeting agendas and summaries were protected deliberative-process materials, and the plaintiff's allegations of unlawful or unauthorized agency conduct did not overcome the privilege.
2. The CDC properly withheld the challenged portions of the BrandLift reports under FOIA Exemption 4.
3. The CDC improperly withheld the CrowdTangle reports under Exemption 4 because it failed to establish that the reports were commercial information, confidential information, or information whose disclosure would cause foreseeable harm to an interest protected by the exemption.
4. Allegations that the government engaged in unlawful or unauthorized conduct do not create an exception to FOIA Exemption 4.

KEY QUOTATIONS

“The documents must therefore be “both predecisional and deliberative.”” (3)

“A meeting agenda prepared before the meeting is necessarily predecisional and inherently deliberative in that staff are suggesting the topics to be discussed at the meeting.” (4)

“not every bit of information submitted to the government by a commercial entity qualifies for protection under Exemption 4.” (8)

“it is hard to see how information could be deemed confidential if its owner shares it freely.” (9)

FACTUAL BACKGROUND

Plaintiff sought CDC records concerning efforts to flag COVID-19 or COVID-19-vaccine misinformation or disinformation on social media, including communications with social-media companies. The CDC produced responsive records in phases and withheld portions under several FOIA exemptions. The remaining disputes

concerned deliberative-process materials and commercial information relating to Meta's BrandLift and CrowdTangle tools; the CDC had already released the previously withheld names under Exemption 6.

PROCEDURAL HISTORY

Plaintiff submitted a FOIA request on July 16, 2021, seeking records concerning efforts to flag COVID-19 or COVID-19-vaccine misinformation or disinformation on social media. After the CDC produced responsive documents in phases, re-reviewed more than 1,000 pages, released additional material, and supplied draft Vaughn indexes, disputes remained concerning Exemption 4 withholdings for BrandLift and CrowdTangle records and Exemption 5 deliberative-process withholdings. The CDC and plaintiff filed cross-motions for summary judgment; the court granted both motions in part and denied both in part.

DISPOSITION

other

CASES CITED

- *Defenders of Wildlife v. U.S. Border Patrol*, 623 F. Supp. 2d 83, 87 (D.D.C. 2009)
- *Alyeska Pipeline Service Co. v. EPA*, 856 F.2d 309, 311 (D.C. Cir. 1988)
- *Reporters Committee for Freedom of the Press v. FBI*, 3 F.4th 350, 361-62 (D.C. Cir. 2021)
- *Military Audit Project v. Casey*, 656 F.2d 724, 738 (D.C. Cir. 1981)
- *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149-50 (1975)
- *Rockwell International Corp. v. U.S. Department of Justice*, 235 F.3d 598, 604 (D.C. Cir. 2001)
- *U.S. Fish & Wildlife Service v. Sierra Club, Inc.*, 592 U.S. 261, 268 (2021)
- *Rudometkin v. United States*, 140 F.4th 480, 492 (D.C. Cir. 2025)
- *Climate Investigations Center v. U.S. Department of Energy*, No. 16-cv-124 (APM), 2017 WL 4004417, at *9 (D.D.C. Sept. 11, 2017)
- *SafeCard Services, Inc. v. SEC*, 926 F.2d 1197, 1201 (D.C. Cir. 1991)
- *Center for Public Integrity v. FEC*, 332 F. Supp. 3d 174, 180 (D.D.C. 2018)
- *National Right to Work Legal Defense & Educational Foundation v. U.S. Department of Labor*, 828 F. Supp. 2d 183, 190 (D.D.C. 2011)
- *Citizens for Responsibility & Ethics in Washington v. U.S. Department of Justice*, 58 F.4th 1255, 1263-66 (D.C. Cir. 2023)
- *Food Marketing Institute v. Argus Leader Media*, 588 U.S. 427, 434, 440 (2019)
- *Greenspan v. Board of Governors of the Federal Reserve System*, 643 F. Supp. 3d 176, 186 (D.D.C. 2022)
- *Reporters Committee for Freedom of the Press v. U.S. Customs & Border Protection*, 567 F. Supp. 3d 97, 109-10 (D.D.C. 2021)
- *Seife v. FDA*, 43 F.4th 231, 240-42 (2d Cir. 2022)
- *Weissman v. CIA*, 565 F.2d 692, 694-96 (D.C. Cir. 1977)
- *Protect Democracy Project, Inc. v. NSA*, 10 F.4th 879, 888-89 (D.C. Cir. 2021)

- In re Sealed Case, 121 F.3d 729, 737-38 & n.5 (D.C. Cir. 1997)
- Flyers Rights Education Fund, Inc. v. FAA, 71 F.4th 1051, 1056 (D.C. Cir. 2023)
- Public Citizen Health Research Group v. FDA, 704 F.2d 1280, 1290 (D.C. Cir. 1983)
- Judicial Watch, Inc. v. U.S. Department of Treasury, 802 F. Supp. 2d 185, 205-06 (D.D.C. 2011)
- Center for Auto Safety v. National Highway Traffic Safety Administration, 93 F. Supp. 2d 1, 17-18 (D.D.C. 2000)
- Critical Mass Energy Project v. Nuclear Regulatory Commission, 975 F.2d 871, 879-80 (D.C. Cir. 1992)
- Judicial Watch, Inc. v. U.S. Department of Defense, 963 F. Supp. 2d 6, 15 (D.D.C. 2013)
- Canning v. U.S. Department of State, 134 F. Supp. 3d 490, 510 (D.D.C. 2015)
- Montgomery v. IRS, 40 F.4th 702, 716 (D.C. Cir. 2022)

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