

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

SUZETTE RASMUSSEN,

Plaintiff,

v.

THE IOWA DEPARTMENT OF PUBLIC
HEALTH and SARAH EKSTRAND,

Defendants.

CASE NO. _____

PLAINTIFF’S PETITION IN EQUITY

Plaintiff Suzette Rasmussen (“Plaintiff”), for her Petition in Equity, states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is an individual residing in Draper, Utah.
2. Defendant the Iowa Department of Public Health is an agency of the State of Iowa.
3. Defendant Sarah Ekstrand is an individual citizen and resident of the State of Iowa.
4. This Court has personal jurisdiction over all parties to this case.
5. This Court has subject matter jurisdiction over the claims asserted in this lawsuit.
6. Venue is proper in this Court pursuant to Iowa Code Chapter 616 and Iowa Code Chapter 22.

FACTUAL ALLEGATIONS

7. In April of 2020, the State of Iowa awarded a \$26 million no-bid contract to Utah entities Nomi Health, Domo, Inc., Qualtrics, and Co-Diagnostics to run the Test Iowa program (the “Test Iowa Contract”).
8. The State of Iowa did not allow competitive bidding for the Test Iowa Contract.

9. On or about March 11, 2021, Plaintiff sent a public records request to Sarah Ekstrand of the Iowa Department of Public Health (the “Request”).

10. In the Request, Plaintiff requested copies of all correspondence between the Iowa Department of Public Health, including but not limited to Interim Director Kelly Garcia, and the Iowa Governor’s Office, Utah state officials, Nebraska state officials, and Tennessee state officials regarding the Test Iowa Contract from March 1, 2020, through the date of the Request. The requested records are referred to herein as the “Records.”

11. On April 14, 2021, in response to an email from Plaintiff, Defendant Ekstrand told Plaintiff that she anticipated having the Request fulfilled within five days.

12. On or around May 26, 2021, Defendant Ekstrand sent an email to Plaintiff confirming Plaintiff wanted to redefine the Request to include “IDPH communications regarding NOMI Health contract from March 20, 2020 to March 11, 2021.”

13. On May 28, 2021, Plaintiff sent Defendant Ekstrand an email confirming the redefined search, and identifying additional key words relevant to the search.

14. Plaintiff followed up with several emails to Defendant Ekstrand regarding the status of the response to the Request, including emails on June 8, 2021 and July 14, 2021.

15. On July 20, 2021, Defendant Ekstrand indicated the Records were in final review and she anticipated being able to release them soon.

COUNT I: VIOLATIONS OF IOWA CODE CHAPTER 22

16. Plaintiff realleges and incorporates the allegations asserted in Paragraphs 1 through 15, above, as if set forth fully herein.

17. Defendants are subject to the requirements of Iowa Code Chapter 22.

18. The Records are government records as defined by Iowa Code Chapter 22.

19. Defendants are lawful custodians of the Records.

20. Iowa Code section 22.10 allows Plaintiff to seek judicial enforcement of the requirements of Iowa Code Chapter 22.

21. Defendants have refused to make the Records available for examination and copying by Plaintiff.

22. Defendants have failed to comply with Iowa Code Chapter 22 in response to the Request.

23. Defendants have not sought injunctive relief to restrain the examination or copying of the Records pursuant to Iowa Code section 22.8.

24. The Records are not confidential records, as defined in Iowa Code Chapter 22.

25. Defendants have waived any claims of privilege or confidentiality in the Records.

26. Plaintiff is entitled to injunctive relief punishable by civil contempt requiring Defendants to comply with Iowa Code Chapter 22 and produce the Records to Plaintiff for examination and copying.

27. Plaintiff is entitled to recovery of her costs and reasonable attorney fees under Iowa Code section 22.10(3)(c).

WHEREFORE, Plaintiff Suzette Rasmussen respectfully requests this Court:

(1) Enter judgment in her favor and against Defendants, finding Defendants violated Iowa Code Chapter 22;

(2) Enter injunctive relief requiring Defendants to comply with Iowa Code Chapter 22 and produce the Records to Plaintiff for examination and copying;

(3) Order Defendants to pay Plaintiff's costs and reasonable attorneys' fees, pursuant to Iowa Code section 22.10(3)(c); and

(4) Order all such other and further relief as this Court deems just under the circumstances.

Respectfully submitted,

/s/ James W. White

Alexander M. Johnson, AT0004024

James W. White, AT0012418

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