

THE IOWA DISTRICT COURT FOR POLK COUNTY

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|-----------------------|---|-------------------------|
| SUZETTE RASMUSSEN, |) | |
| Plaintiff, |) | No. _____ |
| |) | |
| vs. |) | |
| |) | PLAINTIFF'S PETITION AT |
| GOVERNOR KIM REYNOLDS |) | LAW AND EQUITY |
| and MICHAEL BOAL |) | |
| Defendants. |) | |

COMES NOW Plaintiff SUZETTE RASMUSSEN and hereby files this Petition at Law pursuant to the Iowa Fair Information Practices Act (“Act”), Iowa Code section 22.1 et seq., against Defendants GOVERNOR KIM REYNOLDS and MICHAEL BOAL. RASMUSSEN alleges upon personal knowledge and information based upon the investigation of counsel as follows:

INTRODUCTION

1. This case concerns SUZETTE RASMUSSEN’s lawful request to obtain public records from Governor KIM REYNOLDS concerning the Test Iowa program for COVID-19 testing.
2. In April 2020, the State of Iowa awarded a \$26 million contract to Utah entities Nomi Health, Domo, Inc., and Co-Diagnostics to run the Test Iowa program.
3. According to media reports, Governor REYNOLDS stumbled upon Nomi Health during a telephone call with Iowa-born actor Ashton Kutcher.
4. Aides to Governor REYNOLDS also connected with the office of Utah Governor Gary Herbert regarding coronavirus testing.
5. The State of Iowa did not allow competitive bidding for the Test Iowa contract, and no other companies were considered before the contract was awarded.

6. RASMUSSEN has made multiple requests for access to correspondence related to Nomi Health's COVID-19 communications with Governor REYNOLDS and her staff.

7. Governor REYNOLDS has refused to timely and meaningfully respond to RASMUSSEN's open records request.

8. This case goes to the essence of why Iowa has a statutory right to inspect records—the belief that public officials will deal more honestly and fairly when its citizens have the ability to examine the record of government business.

9. Accordingly, judicial enforcement is necessary to protect RASMUSSEN's rights as well as the rights of all Iowans to scrutinize the appropriateness of its government's response to a matter of legitimate public interest.

PARTIES, JURISDICTION, & VENUE

10. Plaintiff SUZETTE RASMUSSEN is an individual residing in Draper, Utah.

11. At all times material hereto, KIM REYNOLDS was the Governor of the State of Iowa and lawful custodian in physical possession of correspondence related to Nomi Health's contract for the Test Iowa COVID-19 program.

12. At all times material hereto, MICHAEL BOAL was the Senior Legal Counsel to the office of Governor KIM REYNOLDS and Lt. Governor Adam Gregg.

13. This Court has jurisdiction over the matter pursuant to Iowa Code section 22.10.

14. Venue is proper in this Court pursuant to Iowa Code section 22.10(1) as Polk County is the county in which Governor KIM REYNOLDS and MICHAEL BOAL have their principal places of business.

BACKGROUND

15. On March 12, 2021, SUZETTE RASMUSSEN submitted a public record request pursuant to Iowa Code chapter 22 to the office of Governor REYNOLDS and Lt. Governor Adam Gregg requesting “all correspondence between Governor REYNOLDS, her staff and the Governor of the State of Utah, Governor Gary R. Herbert and his staff regarding the Test Iowa NOMI HEALTH COVID 19 TEST KITS and CONTRACTS.”

16. On July 20, 2021, MICHAEL BOAL emailed RASMUSSEN directing her “identify email domains or particular search terms to be used by our IT team to locate any potentially responsive records.”

17. RASMUSSEN replied to BOAL’s email the same day with search terms relevant to her request.

18. As of this date, Governor REYNOLDS has not responded to RASMUSSEN’s open records request.

OPEN RECORDS VIOLATION

The preceding paragraphs are incorporated herein by reference.

19. The Iowa Fair Information Practices Act, Iowa Code section 22.1 et seq, seeks to prevent the Government from secreting its decision-making activities from the public, on whose behalf it is its duty to act.

20. Its goal is to facilitate public scrutiny of the conduct of public officers.

21. The Act provides, “Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record.”

22. Iowa Courts have construed the Act to establish a presumption of openness and disclosure.

23. Accordingly, exemptions from the statutory disclosure requirements “are to be construed narrowly.”

24. The records that RASMUSSEN seeks are public records of a government body.

25. Governor REYNOLDS and BOAL have knowingly refused to make the records available for RASMUSSEN for examination and copying.

26. Accordingly, “the burden of going forward shall be on the defendants to demonstrate compliance with the requirements” of the Act. Iowa Code § 22.10(2).

27. Governor REYNOLDS and BOAL lack any lawful basis to withhold the records RASMUSSEN requested.

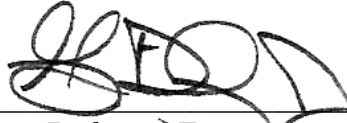
28. Governor REYNOLDS and BOAL cannot carry their burden of demonstrating compliance with the Act.

RELIEF

WHEREFORE, Plaintiff requests that a trial be held in this matter and the Court enter an order that:

- (A) Compels Governor REYNOLDS and BOAL to comply with the requirements of the Act by providing RASMUSSEN access to the requested records;
- (B) Enjoins Governor REYNOLDS and BOAL to refrain for one year from any future violations;
- (C) Governor REYNOLDS and BOAL be assessed damages in the amount of not less than five hundred dollars and not more than two thousand five hundred dollars;
- (D) Removes Governor REYNOLDS and BOAL from office if either is found to have engaged in a prior violation of the Act for which damages were assessed against him during his term; and
- (E) Governor REYNOLDS and BOAL pay all costs and reasonable attorney fees, including appellate attorney fees, to RASMUSSEN.

DATED this 12th day of August 2021.

A handwritten signature in black ink, appearing to read 'G. Dickey', written over a horizontal line.

Gary Dickey, AT#0001999

Counsel of Record for Plaintiff

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