

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

EMPOWER OVERSIGHT  
WHISTLEBLOWERS & RESEARCH,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
VETERANS AFFAIRS,

Defendant.

No. 1:22-cv-559 (MSN/JFA)

**DECLARATION OF JASON FOSTER**

I, Jason Foster, declare the following to be a true and correct statement of facts:

1. I am the Founder and President of Empower Oversight Whistleblowers & Research, a nonprofit, nonpartisan educational organization dedicated to enhancing independent oversight of government and corporate wrongdoing. Empower Oversight works to help insiders document and report corruption to the proper authorities while also seeking to hold authorities accountable to act on those reports.

2. Empower Oversight was incorporated on April 26, 2021.

3. Empower Oversight filed its opposition to the VA's motion for summary judgment in this Court on November 17, 2022.

4. After it filed its opposition in this case, Empower Oversight received a copy of a VA email with unredacted draft answers to Senator Grassley's questions. The VA had produced the email and draft answers to the FOIA plaintiff in *Pomares v. U.S. Dep't of Veterans Affairs*, No. 3:21cv84 (S.D. Cal.). In this case, the VA produced a similar email dated May 20, 2021, with a similar enclosure: the Department's draft answers to Senator Grassley's questions. However, the VA fully redacted the draft answers in the version produced in this case. *See, e.g.*, Opp. Ex. 3 (Dkt. No. 30-3) (Bates 001855 to Bates 001864).

5. On January 3, 2023, Empower Oversight obtained consent from counsel for the plaintiff in the *Pomares* litigation to file the email and draft answers here and disclose them to Congress. On January 27, 2023, Empower Oversight filed the documents as Exhibit B attached to a notice. *See* Dkt. No. 32-2.

6. On January 11, 2023, Empower Oversight provided a copy of the email and unredacted draft answers to Senator Grassley's office, three weeks before becoming aware of VA's February 1, 2023, claim that it had inadvertently produced the document in the *Pomares* litigation.

7. Empower Oversight also filed a second document attached to the notice as Exhibit A (Dkt. No. 32-1). This document is an affidavit signed by Charmain Bogue on February 19, 2019, in connection with the processing of an equal employment opportunity complaint within the Department of Veterans Affairs.

8. After it filed its opposition in this case, Empower Oversight obtained a copy of the affidavit from a confidential whistleblower. On January 10, 2023, about seven weeks after it had filed its opposition to the VA's motion for summary judgment, Empower Oversight obtained consent from the whistleblower to disclose the document to this court and to Congress.

9. On January 11, 2023, Empower Oversight provided a copy of the affidavit to Senator Grassley's office.

9. I declare under penalty of perjury the foregoing is true and correct

**Jason Foster**

Digitally signed by Jason Foster  
Date: 2023.02.15 21:55:38  
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Jason Foster  
Founder & President  
Empower Oversight Whistleblowers & Research