



a substantive response to his requests in most cases, much less any actual records. Instead, defendants have either ignored his requests, passed the buck to the National Archives & Records Administration (“NARA”) or dragged their feet. None of these “responses” complies with the requirements of FOIA and plaintiff requests that this Court order defendants to comply promptly with their unambiguous obligations under the Act.

## **II. JURISDICTION AND VENUE**

2. This Court has both personal jurisdiction over the parties and subject matter jurisdiction over this action pursuant to 5 U.S.C. § 552 (a) (4) (B) and 28 U.S.C. § 1331 as this action arises under FOIA. This District is the proper venue for this action under 5 U.S.C. § 552 (a) (4) (B).

## **III. THE PARTIES**

3. Plaintiff David Mermelstein is a citizen of the United States and resides in Miami, FL. Plaintiff was born in Hungary in 1929, managed to survive the Holocaust, emigrated to the United States in 1947 and became a naturalized citizen of the United States in 1954. Valuable personal property belonging to him and other Hungarian Jews was forcibly seized by the Nazis, later taken into custody by the United States from the so-called Werfen Train or Hungarian Gold Train (the “Gold Train”), and subsequently misappropriated by the United States. Plaintiff sought to learn, through the FOIA requests that are the subject of this complaint, the laws, rules, regulations and policies of the United States governing property of non-combatants in occupied Austria in the post-World War II era, as well as the policies of the United States governing the restitution of Holocaust assets. Plaintiff is also a named plaintiff in a class action lawsuit pending in the United

