UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

LILIAN PAHOLA CALDERON JIMENEZ and LUIS GORDILLO, et al., Individually and on behalf of all others similarly situated, Plaintiffs-Petitioners, v. KIRSTJEN M. NIELSEN, et al., Defendants-Respondents.

No. 1:18-cv-10225-MLW

RESPONSE TO RESPONDENTS' STATUS REPORT REGARDING DISCOVERY

On June 29, 2018, this Court stated that Respondents should be prepared to produce documents on July 17, 2018 in the event that the Court allowed Petitioners' motion for expedited discovery. ECF No. 109 at 2. On July 16, 2018, this Court granted Petitioners' motion and ordered Respondents to produce documents by July 18, 2018. ECF No. 117.

Respondents did not produce any documents by this Court's July 18 deadline¹ and have not yet completed their production. On July 21, Respondents submitted a status report. To Petitioners' understanding, there are two categories of documents left to be produced: (1) an unspecified number of documents related to "the 2018 policies and general practices of the ICE Boston Field Office concerning the arrest, detention, and removal of aliens presenting for 1-130 interviews at CIS offices or otherwise pursuing the provisional waiver process," and (2)

¹ Respondents appear to suggest that a delay in their initial production of documents was due to the parties' negotiations of a Stipulated Protective Order. *See* ECF No. 120 at 2 ("On July 19, 2018, Respondents and Petitioners agreed on a stipulated proposed protective order and Respondents produced 834 documents to Petitioners."). Respondents did not communicate the need for a protective order until July 17 and did not provide a draft protective order for Petitioners' review until the afternoon of July 17. Petitioners responded with a counter-proposal that same evening.

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documents related to three putative class members. *See* Ex. A (July 20, 2018 (9:51PM) Email from M. Larakers to M. Sewall); *id.* (July 20, 2018 (5:57PM) Email from M. Larakers to M. Sewall); ECF No. 120 at 2.

Respondents produced 834 pages on July 19 and 2,016 pages on July 20. A substantial portion of Respondents' production is redacted for attorney-client, work product, deliberative process, or law enforcement privilege and Respondents have not produced a privilege log identifying the basis for the redactions in their July 20 production. Upon review of the unredacted portions of these documents, Petitioners have not yet identified any substantive information regarding Mr. Brophy or Ms. Adducci's policies or directives regarding the arrest, detention, or removal of class members, or the reasons for the decision to give Lucimar De Souza a June 12, 2018 notice to depart the United States or to withdraw it. Respondents have not sought leave from the Court for an extension of time to meet their obligations, and Petitioners object to this late production in violation of the Court's order.²

 $^{^2}$ In light of the current status, the deposition of Ms. Adducci—originally scheduled for July 24—has been rescheduled to July 26. Petitioners expect that they may need to seek an extension of the July 27 deadline for completing depositions.

Respectfully submitted this 23rd day of July, 2018.

/s/ Kevin S. Prussia

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Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2018, a true copy of the foregoing will be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF).

/s/ Kevin S. Prussia

Kevin S. Prussia