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14 **UNITED STATES DISTRICT COURT**  
15 **EASTERN DISTRICT OF WASHINGTON**  
16 **AT SPOKANE**

17 STATE OF WASHINGTON, et al.,

18 Plaintiffs,

19 v.

20 UNITED STATES DEPARTMENT  
21 OF HOMELAND SECURITY, a  
22 federal agency, et al.

Defendants.

NO. 4:19-cv-05210-RMP

PARTIES' JOINT STATUS  
REPORT

Pursuant to the Court's November 14, 2019 Notice, the parties submit this status report regarding the schedule for this case. Counsel for Plaintiffs and Defendants conferred telephonically on December 13, 2019 and discussed a discovery timetable, a cross-dispositive motion briefing schedule, and a deadline

1 for Defendants to answer Plaintiffs' Amended Complaint. In summary, the  
2 parties are not in agreement concerning Plaintiffs' entitlement to a privilege log  
3 or discovery on their Equal Protection Clause claim. They have, however, agreed  
4 to a prompt briefing schedule to allow the Court to resolve these disputes, which  
5 they set out below. Further, also as explained below, the parties believe that the  
6 foregoing disputes should be resolved before they are required to submit a  
7 dispositive motion briefing schedule and deadline for Defendants' responsive  
8 pleading, and they propose to submit a status report addressing these two issues  
9 within one week of the Court's resolution of their discovery dispute.

10 **1. Administrative Record and Discovery**

11 Defendants provided the administrative record to Plaintiffs on  
12 November 25, 2019. Plaintiffs previously had requested that Defendants produce  
13 a privilege log in conjunction with the administrative record; Defendants,  
14 however, dispute Plaintiffs' entitlement to a privilege log. Plaintiffs also notified  
15 Defendants that they intended to take discovery on Count IV of their First  
16 Amended Complaint (ECF #31), alleging a violation of equal protection of the  
17 laws guaranteed by the Fifth Amendment Due Process Clause. Defendants  
18 dispute as well Plaintiffs' entitlement to discovery on this claim. The parties  
19 propose the following briefing schedule to present these disputes for resolution:  
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Plaintiffs' motion to compel privilege log and discovery on their Equal Protection Clause claim	December 19, 2019
Defendants' opposition	January 14, 2020
Plaintiffs' reply	January 28, 2020

In addition, because Plaintiffs are incorporating two motions in a single filing, the parties submit that good cause exists to increase the page limits for all of the briefs on this motion from 10 to 15 pages, and the parties therefore request excess page limits under LCivR 7(f)(5) for all briefs. Each party agrees to the corresponding extension(s) for the other party.

## **2. Schedule for a Responsive Pleading and Cross-Dispositive Motions**

The schedule for resolution of this case will be impacted by the outcome of the foregoing motion. Plaintiffs believe that, if Defendants are required to produce a privilege log, the privilege log may generate disputes about assertions of privilege or lead Plaintiffs to identify with specificity additional topics on which Plaintiffs believe discovery is needed.<sup>1</sup> Further, Defendants are planning to move to dismiss Plaintiffs' claims, and a decision on whether there will be discovery in this case could impact the schedule for dispositive motions and the

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<sup>1</sup> Plaintiffs are reviewing the administrative record produced by Defendants, and they reserve the right to seek supplementation of the record in the future.

1 scope of such motions. Accordingly, the parties propose that they submit a status  
2 report addressing the deadline for Defendants' responsive pleading and a  
3 dispositive motion briefing schedule within one week of the Court's resolution  
4 of their discovery dispute.

5 RESPECTFULLY SUBMITTED this 16th day of December, 2019.

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**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 16th day of December, 2019, at Seattle, Washington.

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