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8 **UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF WASHINGTON**  
9 **AT SPOKANE**

10 STATE OF WASHINGTON, et al.,

11 Plaintiffs,

12 v.

13 UNITED STATES DEPARTMENT  
14 OF HOMELAND SECURITY, a  
federal agency, et al.,

15 Defendants.

NO. 4:19-cv-05210-RMP

DECLARATION OF  
JEFFREY T. SPRUNG IN  
SUPPORT OF PLAINTIFF  
STATES' OPPOSITION TO  
DEFENDANTS' MOTION FOR  
STAY OF ORDER TO PRODUCE  
PRIVILEGE LOG OR, IN THE  
ALTERNATIVE, FOR  
EXTENSION OF TIME

16 I, Jeffrey T. Sprung, declare as follows:

17 I am over the age of 18 and have personal knowledge of all the facts stated  
18 herein. I am one of the Assistant Attorneys General assigned to this case. I make  
19 this declaration on my personal knowledge of the following:

20 1. On April 30, 2020, Assistant Attorney General Josh Weissman and  
21 I spoke by telephone with counsel for DHS, Josh Kolsky. On that call, Mr. Kolsky

1 stated that DHS would file in the next few days a motion to stay the Court's  
2 April 17, 2020 order compelling a privilege log and authorizing equal protection  
3 discovery. He stated that DHS would ask, in the alternative if the motion for stay  
4 were denied, for a 90-day extension in the deadline for production of the privilege  
5 log, calculated from the date of the order denying the motion for stay.

6 2. Later on April 30, 2020, I sent Mr. Kolsky an e-mail advising him  
7 that the Plaintiff States did not consent to a stay of the Court's April 17 order. In  
8 that e-mail, I informed Mr. Kolsky that the Plaintiff States would consent to a  
9 rolling production of the privilege log starting on a reasonable date. My April 30,  
10 2020 e-mail to Mr. Kolsky is attached as Exhibit 1.

11 3. On May 1, 2020, Mr. Kolsky asked whether the Plaintiff States had  
12 a specific proposal in mind for a rolling production, but DHS neither accepted  
13 our proposal nor offered one of its own. On May 5, before I responded to  
14 Mr. Kolsky's inquiry, DHS filed the instant motion for stay of the Court's  
15 April 17 Order.

16 DATED this 11th day of May 2020, at Seattle, Washington.

17  
18 /s/ Jeffrey T. Sprung  
19 JEFFREY T. SPRUNG  
20 Assistant Attorney General

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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 11th day of May 2020, at Seattle, Washington.

/s/ Jeffrey T. Sprung  
JEFFREY T. SPRUNG, WSBA #23607  
Assistant Attorney General

# Exhibit 1

**From:** [Kolsky, Joshua \(CIV\)](#)  
**To:** [Sprung, Jeff T \(ATG\)](#)  
**Cc:** [Kallen, Michelle S.](#); [Bays, Nathan K. \(ATG\)](#); [Samuels, Jessica Merry](#); [Weissman, Joshua \(ATG\)](#); [Williams, Jennah D \(ATG\)](#); [Summers, Grace M \(ATG\)](#)  
**Subject:** RE: public charge litigation - ED. WA  
**Date:** Friday, May 1, 2020 9:21:17 AM

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Jeff,

Regarding a rolling privilege log production, do you anything specific in mind in terms of the schedule for such productions? That would help us consider whether such a proposal might be workable.

Regards,  
Josh

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**From:** Sprung, Jeff T (ATG) <jeff.sprung@atg.wa.gov>  
**Sent:** Thursday, April 30, 2020 5:45 PM  
**To:** Kolsky, Joshua (CIV) <jkolsky@CIV.USDOJ.GOV>  
**Cc:** Kallen, Michelle S. <MKallen@oag.state.va.us>; Bays, Nathan K. (ATG) <Nathan.Bays@ATG.WA.GOV>; Samuels, Jessica Merry <JSamuels@oag.state.va.us>; Weissman, Joshua (ATG) <joshua.weissman@atg.wa.gov>; Williams, Jennah D (ATG) <jennah.williams@atg.wa.gov>; Summers, Grace M (ATG) <grace.summers@atg.wa.gov>  
**Subject:** public charge litigation - ED. WA

Josh: I've had a chance to confer with our team. We don't consent to a stay of Judge Peterson's order regarding a privilege log and equal protection discovery.

We would be happy to work with you on lessening COVID-related hardships on DHS and DoJ employees in connection with producing a privilege log. We wouldn't agree, however, to simply putting off any work on the privilege log while the motion for stay is pending. We are agreeable to a rolling privilege log production starting on a reasonable date consistent with the above position. If that's something you'd like to discuss, please let us know.

Finally, we agree to your suggestion to replace the fixed date for dispositive motions with a date 30 days after the close of discovery. Let us know how you'd like to proceed. Jeff

Jeff Sprung | **Washington Attorney General's Office** | Direct: (206) 326-5492 | Mobile: (206) 348-4737