

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COOK COUNTY, ILLINOIS,

et al.,

Plaintiffs,

v.

CHAD F. WOLF, in his official capacity as
Acting Secretary of U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY,

et al.,

Defendants.

Case No. 19-cv-6334

Judge Gary Feinerman

JOINT STATUS REPORT REGARDING DISCOVERY

Pursuant to this Court's Order dated July 24, 2020 (ECF No. 190), the parties submit the following joint status report regarding (1) a document production schedule, (2) search terms for a limited search addressing Defendant Cuccinelli's statement about the Lazarus poem between July 1, 2019 and August 31, 2019, and (3) the process for determining which individuals will be deposed and when.

I. Document Production Schedule

The parties have agreed to a rolling document production that occurs on a bi-weekly basis, beginning on August 28, 2020 and concluding on September 25, 2020.¹ In addition, Defendants have agreed to (1) prioritize the review of documents from Plaintiffs' requested deponents that are or were affiliated with Defendants, and (2) for those deponents that are not affiliated with Defendants and whose documents are being reviewed by separate persons, request that those persons prioritize their review according to Plaintiffs' proposed deponent list. The parties dispute whether Defendants should produce a privilege log on a rolling basis.

¹ Note that this deadline does not apply to documents initially withheld as privileged but which, after further review or Court Order, are produced.

PLAINTIFFS: Plaintiffs request that Defendants produce a rolling privilege log with each production that lists each document from that particular production that has been withheld based on privilege. The parties anticipate that the Court will need to resolve privilege disputes, and a rolling privilege log will allow the parties to potentially present any privilege disputes to the Court sooner rather than later. If Defendants do not produce any privilege log until after all document production is complete, this will delay the ability to resolve any privilege disputes and stall any depositions until such disputes are resolved. Defendants confirmed that they will be reviewing documents for responsiveness and privilege simultaneously, so this does not impose any additional burden on Defendants. Moreover, Defendants have been producing a bi-weekly privilege log in the Washington case, so it is not unreasonable to ask Defendants to do the same here.

DEFENDANTS: Due to resource constraints, Defendants cannot adequately and expeditiously review and produce documents *and* undertake the steps necessary to finalize a privilege log on a bi-weekly basis. The privilege review process alone will require quality checking, possible consultation with other government agencies that may be implicated, and construction of the privilege log itself.

Plaintiffs note that Defendants are already producing bi-weekly privilege logs in the Washington matter. But that is Defendants' point: Defendants are subject to other litigation demands which consume necessary resources. Further, even in the Washington matter, Defendants have made clear that they must confer with other government agencies about certain documents and that conferral process has not been completed within the two-week rolling production periods.

Defendants propose that the privilege-logging process commence once Defendants have completed rolling productions on September 25, 2020.

II. Search Terms for Documents Related to Cuccinelli's Statements About Emma Lazarus Poem

The parties are still discussing search terms for a limited search for documents between July 1, 2019 through August 31, 2019 related to Cuccinelli's statement about the Emma Lazarus poem. Plaintiffs proposed the following search terms from the agreed-upon search term list

- Emma Lazarus
- European / 5 immigrant
- White /5 European
- White / 5 immigrant
- Whites or (white w/10 (immigrant! Or people! Or person! Or individual!))

Defendants are still collecting the necessary documents to determine hit counts.

III. Deposition Process

The parties will meet and confer about deponents, their availability, and the timing of depositions at a later date after Defendants have commenced document production.

Dated: August 3, 2020

Respectfully submitted,

/s/ David A. Gordon

David A. Gordon

Tacy F. Flint

Marlow Svatek

SIDLEY AUSTIN LLP

One South Dearborn Street

Chicago, IL 60603

(312) 853-7000 (Telephone)

(312) 853-7036 (Facsimile)

dgordon@sidley.com

tflint@sidley.com

msvatek@sidley.com

Yvette Ostolaza (*pro hac vice*)

Texas Bar No. 00784703

Robert S. Velevis (*pro hac vice*)

Texas Bar No. 24047032

SIDLEY AUSTIN LLP

2021 McKinney Ave, Suite 2000

Dallas, Texas 75201

(214) 981-3300 (Telephone)

(214) 981-3400 (Facsimile)

Yvette.ostolaza@sidley.com

rvelevis@sidley.com

/s/ Caroline Chapman

Caroline Chapman

Meghan P. Carter

LEGAL COUNCIL FOR HEALTH JUSTICE

17 N. State, Suite 900

Chicago, IL 60602

Phone: (312) 605-1958

Fax: (312) 427-8419

cchapman@legalcouncil.org

mcarter@legalcouncil.org

/s/ Katherine E. Walz

Katherine E. Walz

Andrea Kovach

Militza M. Pagan

SHRIVER CENTER ON POVERTY LAW

67 E. Madison, Suite 2000

Chicago, IL 60603

Phone: (312) 368-2679

Fax: (312) 263-3846

katewalz@povertylaw.org

andreakovach@povertylaw.org

militzapagan@povertylaw.org

*Counsel for Illinois Coalition For Immigrant
and Refugee Rights, Inc.*

ETHAN P. DAVIS

Acting Assistant Attorney General

ALEXANDER K. HAAS

Director, Federal Programs Branch

/s/ Kuntal Cholera

ERIC J. SOSKIN

KERI L. BERMAN

KUNTAL V. CHOLERA

JOSHUA M. KOLSKY, DC Bar No. 993430

Trial Attorneys

U.S. Dept. of Justice, Civil Division,

Federal Programs Branch

1100 L Street, N.W., Rm. 12002

Washington, DC 20001

Phone: (202) 305-8645

Fax: (202) 616-8470

Email: kuntal.cholera@usdoj.gov

Counsel for Defendants