IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910

Hon. Mark A. Goldsmith
Mag. David R. Grand

Class Action

PETITIONERS/PLAINTIFFS' RESPONSE IN OPPOSITION TO GOVERNMENT'S PRIVILEGE CLAIMS

In their memorandum filed March 23, 2018, Respondents resist responding to one of Petitioners' interrogatories, claiming that the law enforcement privilege protects them from identifying "certain names of ICE officers and foreign government officials who participated in meetings regarding the implementation of removals to Iraq." Respondents' Mem., ECF 264, Pg.ID# 6426. They cite no authority where the law enforcement privilege applies to negotiations with foreign governments to effectuate removal. And they cite no authority where the names of those involved in international removal negotiations garner protection under the law enforcement privilege.

These names are critical to Petitioners' ability to conduct discovery in this case. The government continues to change its position on Iraq's willingness to

accept its nationals who are subject to orders of removal—originally claiming there was an agreement, then eventually disclosing when pressed by the Court that there is no formal written agreement. Recently Respondents state that there "has been no international agreement in force" regarding the repatriation of Iraqi nationals, but that there is an "understanding" of the process. Ex. 1, ICE's Response to Interrogatory No. 1. It is this agreement that purportedly forms the basis for Respondents' justification to detain class members awaiting resolution of their immigration proceedings. And the parameters of this arrangement are essential to Petitioners' *Zadvydas* claim and Petitioners' ability to show that removal is not significantly likely in the reasonably foreseeable future. Respondents' refusal to identify the individuals who have knowledge about its existence (or lack thereof) is thus extremely consequential.

While Petitioners' need for this information is clear, Respondents have failed to show that this information falls within the protection of the law enforcement privilege. The Court should require them to produce the names.

BACKGROUND

Petitioner/Plaintiff Usama Jamil Hamama's Interrogatory No. 12 seeks:

> The name, title and department of the government (for both Iraq and the United States) of each individual negotiating the Iraqi Agreement, including the "ongoing diplomatic negotiations" referenced in the declaration of Michael V. Bernacke at paragraph 4 (ECF 184-2, Pg.ID# 5070-71), identification of the individuals authorized to

> enter into any agreement reached by the governments regarding the repatriation of Iraqi Nationals, and the date of negotiations.

In the March 13, 2018 Order Regarding Further Proceedings, this Court overruled Respondents' relevance objection to this interrogatory and directed them to respond to it as written. ECF 254 ¶ 39, Pg.ID# 6238-39. Respondents have asserted the law enforcement privilege to withhold certain names of ICE and DHS officials, the names and titles of Iraqi government officials, and the names and titles of Department of State officials. *See* Decl. of Philip T. Miller ¶ 8, ECF 264-1, Pg.ID# 6438; Decl. of James W. McCament¶ 9, Pg.ID# 6443; Ex. 1, ICE's Response to Interrogatory No. 12; Ex. 2, DHS's Response to Interrogatory No. 12.

A. Respondents' Prior Inconsistent Statements Regarding the Iraq Agreement.

Respondents have offered various inconsistent descriptions of the existence and details of a supposed 2017 agreement with the Iraqi Government to repatriate 1,400 Iraqi nationals with final orders of removal. In July 2017, while opposing the preliminary injunction seeking a stay of removal, Respondents stated that "[r]ecent efforts to return Iraqi nationals to Iraq do not reflect a change in policy and there have been numerous removals to Iraq in each of the past ten years." ECF 81, Pg.ID# 1960. Yet attached to this same brief was the Declaration of John A. Schultz, Jr., who claimed that "due to renewed discussions between the United States and Iraq in recent months, Iraq has agreed, using charter flights, to the

timely return of its nationals that are subject to final orders of removal." Schultz Decl. ¶ 5, ECF 81-4, Pg.ID# 2006. According to Mr. Schultz, this **was** a change in policy, as previously Iraq would only accept its nationals who had unexpired passports and only those traveling on commercial flights, with some limited exceptions. *Id.* ¶ 6. Schultz stated that based on renewed discussions with Iraq, Iraq would issue travel documents based on "other indicia of nationality." *Id.*

In December 2017, Respondents emphasized that the existence of an agreement with the Iraqi Government that changed its repatriation policy was beyond dispute. In their Reply to Petitioners' Opposition to the Motion to Dismiss, Respondents stated:

> As widely reported, **Iraq agreed, as part of negotiations to exempt it from the March 2017 executive order . . . to accept repatriation of Iraqi nationals that Iraq had previously denied.** *See, e.g.*, Stephen Dinan, *Trump's first victory in deportation feud is Iraq*, Washington Times, https://www.washingtontimes.com/news/2017/mar/7/iraq-removed-from-travel-ban-list-ater-agreeing-to/ (last updated Mar. 7, 2017). Indeed, DHS removed Iraqi nationals to Iraq **under this agreement** in the weeks before the Court entered its stay. . . .**These generally available facts are not reasonably subject to dispute**.

ECF 173, Pg. ID# 4882 (emphases added). And again, at oral argument on the Motion to Dismiss (ECF 135) and Petitioners' Motion for a Preliminary Injunction on Detention Issues (ECF 138), the government, distinguishing this case from *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003), argued that "the *Ly* decision is really looking at two main problems. The first is that **there was no repatriation**

agreement so there was no way that these individuals could be returned . . . . We don't have that issue here for the vast majority of the class." December 20, 2017 Hearing Tr. at 80:3-80:5, 80:8-80:9 (emphasis added).

Within two days of making this statement, the government qualified its position; while it continued to assert there was an agreement, it now emphasized that that agreement was unwritten. On December 22, 2017, Mr. Bernacke repeatedly mentioned the existence of an unwritten agreement:

> As noted in the declaration submitted by my colleague John A. Schultz on July 20, 2017, in 2017, Iraq **agreed** to the timely return of its nationals subject to a final order of removal. The **agreement** between the United States and the Iraq Ministry of Foreign Affairs (MFA) **is not memorialized in any written agreement or treaty**. It is the product of ongoing diplomatic negotiations.
>
> Based on this **agreement**, the United States planned to schedule the return of all Iraqi nationals with final orders of removal in the United States. This **agreement** does not contemplate any numeric limitation on the number of removals in total or on an annual basis.

Bernacke Decl. ¶¶4-5, ECF 184-2, Pg.ID# 5070-71 (emphases added).

B. Respondents Provide New Contradictory Details on the Iraq Agreement in Discovery.

On March 23 and March 27, 2018, respectively, ICE and DHS provided responses to Petitioners' First Set of Interrogatories. In these responses, they offer yet another, contradictory description of the Iraq Agreement. ICE now claims that there is no international agreement, written or otherwise. In response to Petitioners' Interrogatory No. 1, ICE asserts that:

> **There has been no international agreement in force, nor any written arrangement in effect,** between the governments of Iraq and the United States regarding the repatriation of Iraqi nationals. However, through discussions during this time, the governments of Iraq and the United States have **reached an understanding** of the process for repatriating Iraqi nationals.

Ex. 1, ICE's Response to Interrogatory No. 1 (emphases added).

Similarly, DHS claims:

> [It] is **unaware of any written agreement or arrangement between the governments of Iraq and the United States regarding repatriation of Iraqi Nationals**. . . . Upon information and belief, **DHS understands that Iraq has agreed in principle** to repatriate Class Members and that requests for repatriation of Class Members could be coordinated by ICE Enforcement and Removal Operations ("ERO") through Government of Iraq.

Ex. 2, DHS's Response to Interrogatory No. 1 (emphases added).

In addition to the government's slow disavowal of any agreement with Iraq, the one document the government has produced to date shows how tenuous this "understanding" is between the United States and Iraqi governments. Of particular note is a bulleted list of talking points, titled "[redacted] – that is, before many of the government's representations to this court. That document shows that earlier in [redacted]

[redacted]. Ex. 3, DHS Document DHSHAMAMA 000001. The government has produced no other document showing that the Iraqi government ever agreed to accept the June 2017 flight.[1] Respondents have claimed in past briefs that this Court's TRO and preliminary injunction were the reason the June 2017 flight could not take place, without disclosing that in fact Iraq had [redacted]. *See* Order, ECF 32, Pg.ID# 498 (noting that at oral argument held on June 21, 2017, the "Government stated that it intends to begin removals as early as June 27, 2017."); Gov't Opp. to Mot. for Prelim. Inj., ECF 158, Pg.ID# 4096-97 (ICE originally had a charter flight scheduled in June 2017 . . . that was rescheduled for July 2017 . . . however, ICE was not able to effectuate that flight due to the court's July 24, 2017 preliminary-injunction order."); December 20, 2017 Hearing Tr. at 115:18-116:3 (discussing removal efforts, including charter flights, that had to be stopped "because of the Court's preliminary injunction"); Ex. 5, ICEHamama000002-3 [redacted]).

[1] Despite Respondents' representations to the Court that they began to produce documents on March 30, 2018 (*see* ECF 267, Pg.ID# 6464), Respondent DHS has produced 1 document (consisting of 1 page) and ICE has produced 2 documents (consisting of 3 pages).

C. Respondents Withhold Names and Identifying Information in Discovery, Claiming Protection under the Law Enforcement Privilege.

In response to Interrogatory No. 12, ICE provided a table that identifies [redacted]. Ex. 4, ICE's Response to Interrogatory No. 12. ICE also identifies [redacted] as in attendance. *Id.* For other [redacted], it identifies [redacted], but redacts [redacted]. *Id.* All identifying information of [redacted] is redacted. *Id.*

DHS also responded to Interrogatory No. 12, and indicates that, on two dates, the "U.S. Government primarily was represented by" Messrs. Nealon (on the first date) and Schultz and Bernacke (on the second), but acknowledges (without providing names or titles) that they were accompanied by additional personnel from both DHS and the U.S. Department of State's Office of Iraq Affairs. Ex. 2, DHS Response to Interrogatory No. 12.

Comparing Respondents' responses shows that ICE's responses are incomplete; it is evidently withholding the names of other persons who attended the meetings without indicating that the omission is taking place or its basis. For instance, Both DHS and ICE indicate [redacted]. Ex. 2, DHS's Response to Interrogatory 12; Ex. 4, ICE's Response to Interrogatory

12. DHS disclosed that representatives were present from both DHS's Office of Policy and the Department of State's Office of Iraq Affairs [redacted]; ICE omits this information from its interrogatory response. *Compare* Ex. 2, DHS's Response to Interrogatory 12 *with* Ex. 4, ICE's Response to Interrogatory 12. Respondents have also withheld the names of ICE and DHS employees who have searched their files for records responsive to Petitioners' document requests, despite being ordered by the Court to disclose these names (Order ¶ 31, ECF 254, Pg.ID# 6235-36).[2] *See* Ex. 6, Decl. of John A. Schultz, Jr. ¶ 4; Ex. 7, Decl. of David J. Palmer ¶ 9. The government has, however, made limited disclosures of the following individuals: [redacted] Matthew King (DHS Deputy Assistant Secretary for International Engagement), [redacted] and Ambassador James Nealon (DHS Assistant Secretary for International Affairs). These disclosures were preceded by statements from both ICE and DHS to the effect that they were not involved in "[a]ny diplomatic negotiations" but "did participate in discussions" with the Iraqi government, despite declarations in the past from Messrs. Schultz and Bernacke disclosing that negotiations took place.

[2] In an email dated April 10, 2018, Respondents' counsel Nicole Murley indicated that Respondents "withheld" those names "because that information is law enforcement sensitive." Respondents did not assert, in either their privilege memo (ECF 64) or declarations, that they were claiming the law enforcement privilege as to this information.

Compare Ex. 2, DHS's Response to Interrogatory No. 12 *and* Ex. 4, ICE's Response to Interrogatory 12 *with* Schultz Decl. ¶ 4, ECF 158-2, Pg.ID# 4130 *and* Bernacke Decl. ¶ 4, ECF 184-2, Pg.ID# 5070-71.

LEGAL STANDARD

The law enforcement privilege is narrow and qualified. It protects "law enforcement techniques and procedures, information that would undermine the confidentiality of sources, information that would endanger witness and law enforcement personnel or the privacy of individuals involved in an investigation, and information that would otherwise interfere with an investigation." *In re The City of New York*, 607 F.3d 923, 944 (2d Cir. 2010) (internal quotation marks omitted). The government agency asserting the privilege "bears the burden of showing that the privilege applies to the [information] in question." *City of New York*, 607 F.3d at 944; *Friedman v. Bache Halsey Stuart Shields, Inc.*, 738 F.2d 1336, 1341 (D.C. Cir. 1984). Moreover, the agency must make a "substantial threshold showing that there are specific harms likely to accrue from disclosure". *MacNamara v. City of New York*, 249 F.R.D. 70, 85 (S.D.N.Y. 2008) (internal quotation marks omitted).

Even when appropriately invoked, the privilege is not absolute and must be balanced against "the need of a particular litigant" for the information. *In re Sealed Case*, 856 F.2d 268, 272 (D.C. Cir. 1988); *Nat'l Cong. for Puerto Rican*

Rights ex rel. Perez v. City of New York, 194 F.R.D. 88, 92 (S.D.N.Y. 2000). In weighing the litigants' competing interests in disclosure, "it is appropriate to conduct the balancing test . . . with an eye towards disclosure," as the privilege is "'in derogation of the search for truth.'" *Tuite v. Henry*, 181 F.R.D. 175, 177 (D.D.C.1998), *aff'd*, 203 F.3d 53 (D.C. Cir. 1999) (quoting *United States v. Nixon*, 418 U.S. 683, 710 (1974)).

In doing so, courts consider ten non-exclusive factors, which include:

> (1) the extent to which disclosure will thwart governmental processes by discouraging citizens from giving the government information; (2) the impact upon persons who have given information of having their identities disclosed; (3) the degree to which governmental self-evaluation and consequent program improvement will be chilled by disclosure; (4) whether the information sought is factual data or evaluative summary; (5) whether the party seeking discovery is an actual or potential defendant in any criminal proceeding either pending or reasonably likely to follow from the incident in question; (6) whether the investigation has been completed; (7) whether any interdepartmental disciplinary proceedings have arisen or may arise from the investigation; (8) whether the plaintiff's suit is nonfrivolous and brought in good faith; (9) whether the information sought is available through other discovery or from other sources; and (10) the importance of the information sought to the plaintiff's case.

Tuite, 181 F.R.D. at 177 (citing *In re Sealed Case*, 856 F.2d at 272, and *Frankenhauser v. Rizzo*, 59 F.R.D. 339, 344 (E.D. Pa. 1973)).

"The privilege protects only suggestions, advice, recommendations and opinions, rather than factual and investigatory reports, data and surveys in government files." *In re Packaged Ice Antitrust Litig.*, No. 08-MD-01952, 2011

WL 1790189, at *6, *7 (E.D. Mich. May 10, 2011) (quoting *United States v. Leggett & Platt, Inc.*, 542 F.2d 655, 659 (6th Cir. 1976)) (Ex. 8). It is further constrained by relevance and time limitations. *In re U.S. Dep't of Homeland Sec.*, 459 F.3d 565, 571 (5th Cir. 2006) (noting that the privilege lapses after a certain time even in ongoing investigations).

ARGUMENT

Iraq's willingness to accept repatriation of class members goes to the heart of Petitioners' *Zadvydas* claim. The contours of any agreement, understanding, or arrangement in principle have real consequences on the liberty interests of class members. The government is the sole party in possession of this information and is hiding behind the law enforcement privilege to keep it from Petitioners. It is a "fundamental maxim[] of discovery that 'mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation.'" *In re Packaged Ice*, 2011 WL 1790189, at *9 (quoting *SEC v. Rajarantam*, 622 F.3d 159, 181 (2d Cir. 2010)). These relevant facts should be revealed. Respondents bear "the burden of showing that the privilege applies to the documents in question." *City of New York*, 607 F.3d at 944. They must make a "substantial threshold showing" of specific harms likely to result from disclosure. *MacNamara*, 249 F.R.D. at 85. Respondents have failed to do so. Moreover, Petitioners' need for this information far outweighs any potential, unsubstantiated harm.

I. RESPONDENTS FAIL TO SHOW THAT THIS INFORMATION FALLS WITHIN THE SCOPE OF THE LAW ENFORCEMENT PRIVILEGE.

As a threshold matter, Respondents fail to explain how this identifying information falls within the scope of the law enforcement privilege. Respondents claim that the identities of law enforcement personnel should be withheld to protect their safety and privacy, and that disclosure would harm ERO's removal mission and impede collaborative relationships between ICE, other federal agencies, and foreign government counterparts. Respondents' Mem., ECF 264, Pg.ID# 6432. None of these reasons withstands scrutiny, and this information is not entitled to protection.

A. Respondents Fail to Show any Harm to Law Enforcement Officials.

Respondents claim that individual law enforcement agents within ICE would be placed in jeopardy if their names were disclosed. Respondents' Mem., ECF 264, Pg.ID# 6432. They claim that these deportation officers and an assistant attaché for removal "were, and are, in positions of access to information regarding ICE removal operations," including removal schedules, officer information for escorted removals, and contacts with foreign governments. Miller Decl. ¶ 9, ECF 264-1 Pg.ID# 6438. But this is true of all deportation and detention officers, whose identities are often disclosed to the public as they regularly appear in immigration and other court proceedings. The fact that they are privy to this

information is no secret; it is easily discernable from the ICE website. *See Detention & Deportation Officer*, U.S. Immigration & Customs Enf't *https://www.ice.gov/careers/ddo* (last updated Aug. 28, 2017).

In this case alone, Respondents have publicly filed the names and declarations of at least ten deportation officers and other officials with access to the type of information now claimed to be at risk if their identities were known. The table attached at Exhibit 9 highlights the contradictory position that Respondents have taken in this and other cases. For instance, in May 2017, the government submitted in another case the declaration of Detention and Deportation Officer Julius Clinton, who asserted that he communicates with foreign government representatives to obtain travel documents for the removal of aliens with final orders of removal. Decl. of Julius Clinton ¶ 3, ECF 84-2, Pg.ID# 2225 (originally filed in *Ablahid v. Adducci*, Case No. 17-10640); Decl. of Julius Clinton ¶ 3, ECF 84-8, Pg.ID# 2257 (originally filed in *Ablahid v. Adducci*, Case No. 17-10640). This included negotiations with Iraq in 2017 in an effort to remove an Iraqi national he identified by name. Clinton Decl. ¶ 3-9, ECF 84-2, Pg.ID# 2225-26; Clinton Decl. ¶ 3-8, ECF 84-8, Pg.ID# 2257-58. In another declaration filed in June 2017 in this case, Deputy Field Officer Robert K. Lynch, Jr. stated that "[m]y duties include, among other things, to locate and/or apprehend aliens; prepare and defend deportation or exclusion proceedings, ensuring the physical removal of

aliens from the United States at various stages of their deportation/exclusion proceedings, and ensuring the execution of final orders of removal." Decl. of Robert K. Lynch, Jr. ¶ 2, ECF 38-2, Pg.ID# 659. And several more deportation officers identified by name in this case attest that their duties include executing final orders of removal, going into great detail as to the specific efforts relating to named petitioners. *See* Ex. 9. Respondents give no explanation as to why they so freely disclosed the job duties and identities of the ICE officers named in Exhibit 9, but disclosure of the individuals' names responsive to Interrogatory No. 12 is so harmful that it should be foreclosed. In fact, they have provided no support as to whether they have otherwise kept confidential the names of the officers at issue in Interrogatory No. 12, or how those officers' role in this specific removal operation somehow creates a greater risk than that faced by other similarly situated and publicly-known officials.

Notably, Respondents have already made limited disclosure of the identities of ICE officers involved in discussions on the Iraq Agreement, without any harm. Respondents previously disclosed the names and titles of John Schultz and Michael Bernacke, and the fact that they both have been involved in some way with the specific discussions at issue in Interrogatory No. 12. But Respondents provide no statement that Mr. Schultz or Mr. Bernacke have been subject to harm or that their personal safety has been threatened in any way.

Regardless, the Stipulated Protective Order (ECF 91) would limit disclosure of this information. *See* ¶ V, ECF 91, Pg.ID# 2382. Respondents argue the Protective Order would not mitigate the risk simply because the information involves discussions with a foreign government. Miller Decl. ¶ 6, ECF 264-1, Pg.ID# 6437. But they provide no explanation. *See id. See also* McCament Decl. ¶ 7, ECF 264-2, Pg.ID# 6442. Again, Respondents have already repeatedly and freely provided identifying information for ICE officials who have been involved in discussions with foreign governments relating to the removal of aliens. *See* Ex. 9, Table of ICE/ERO Officers. Moreover, even if the current Stipulated Protective Order were inadequate (which it is not), the Court could impose stricter protective measures—such as limiting its use to "Attorney's Eyes Only"—to further mitigate any remote risk. *MacNamara*, 249 F.R.D. at 80 (stating that the Court must consider the effect of a protective order which "can mitigate many if not all of the oft-alleged injuries to police and law enforcement") (internal quotation marks omitted). *See also Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984) (stating that the trial court has "broad discretion" to determine "when a protective order is appropriate and what degree of protection is required"); *Methode Elecs., Inc. v. Delphi Auto. Sys. LLC*, No. CIV.A. 09-13078, 2009 WL 3875980, at *2 (E.D. Mich. Nov. 17, 2009), *aff'd as modified sub nom. Methode Elecs., Inc. v. DPH-DAS LLC*, 679 F. Supp. 2d 828 (E.D. Mich. 2010) (noting that "[t]he typical

means" to mitigate risk of disclosure of confidential information "is through a protective order that allows documents to be designated "'attorneys eyes only"').

B. Disclosure Will Not Harm Collaborative Relationships.

Respondents further claim they are entitled to protection because disclosure will harm collaborative relationships between ICE, other federal agencies, and foreign counterparts. Miller Decl. ¶ 10, ECF 264-1, Pg.ID# 6438; McCament Decl. ¶¶ 11-12, ECF 264-2, Pg.ID# 6443-44. They cite no authority where information about negotiations with a foreign government to effectuate removals is covered by the privilege. Nor do they identify any cases where the privilege protects the identities of public officials tasked with that negotiation. This is unsurprising; the law enforcement privilege does not fit these circumstances.

This is not an instance where the information will "tip off" a criminal. Nor will it risk disclosure of "sensitive investigative techniques," "confidential government surveillance information," or any evidence that may "jeopardize a future criminal investigation"—the core concerns the law enforcement privilege is designed to protect. *Commonwealth of Puerto Rico v. United States*, 490 F.3d 50, 62 (1st Cir. 2007). Far from being confidential investigation techniques or procedures, the government itself has already publicly disclosed the existence and

details of the negotiations that are at issue here,[3] though the accounts tend to change as time goes on. Moreover, Petitioners are not seeking techniques, but only facts. This is not what the law enforcement privilege is intended to protect. *Leggett & Platt, Inc.*, 542 F.2d at 658 (privilege applies to "suggestions, advice, recommendations, and opinions, rather than factual and investigatory reports, data, and surveys in government files").

While Respondents allege that disclosure will chill international and interagency cooperation, the record in this case undercuts this position. For months, it has been public knowledge that, at a minimum, Mr. Bernacke (acknowledged in his December 2017 declaration), Mr. Schultz (acknowledged in his July 2017 declaration), and Julius Clinton (acknowledged in his May 9, 2017 declaration) (ECF 84-8) have been working with the Iraqi on repatriation. Respondents offer no evidence that disclosure of their identities has impeded removal efforts or caused any harm to collaborative relationships, either internally or externally. Moreover, these negotiations have [redacted]. Ex. 4 ICE's Response to Interrogatory No. 12. These discussions have continued despite public filings disclosing that Petitioners are seeking this information and the Court having

[3] *See, e.g.*, Schultz Decls. (ECF 81-4, 158-2); Reply to Motion to Dismiss (ECF 173); Bernacke Decl. (ECF 184-2).

allowed discovery of this information. Order ¶ 2(d), ECF 191, Pg.ID# 5362; Order ¶¶ 26-40, ECF 254, Pg.ID# 6233-39. And still the government provides no basis, let alone substantial evidence, to show this has had a chilling effect.[4]

Respondents have not made a "substantial threshold showing that there are specific harms likely to accrue from disclosure" and are not entitled to protection of the law enforcement privilege. *MacNamara*, 249 F.R.D. at 85.

II. THE BALANCING FACTORS IN *TUITE* WEIGH IN FAVOR OF DISCLOSURE.

Even if Respondents could show that the information sought by Interrogatory No. 12 falls within the law enforcement privilege, they cannot overcome the balancing test required for withholding. Respondents recognize the

[4] Respondents cite to FOIA exemption 7 as guidance for the law enforcement privilege. Respondents' Mem., ECF 264, Pg.ID# 6431. But FOIA was not intended to supplant civil discovery, and information protected under FOIA is not automatically exempt from disclosure in court proceedings. *See John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 153 (1989) ("[T]he FOIA was not intended to supplement or displace rules of discovery."); *Jones v. FBI*, 41 F.3d 238, 250 (6th Cir. 1994) (affirming propriety of plaintiff obtaining certain materials during discovery that had been withheld under FOIA and stating that "FOIA's scheme of exemptions does not curtail a plaintiff's right to discovery in related non-FOIA litigation"). The ordinary tests for invoking the privilege and for balancing the respective harms to the parties applicable to discovery privileges, rather than the FOIA factors, control. *Wash. Post Co. v. U.S. Dep't of Health & Human Servs.*, 690 F.2d 252, 258 (D.C. Cir. 1982) ("It is well established that information that is exempt from disclosure to the general public under FOIA may nevertheless be subject to discovery."). *See also Kamakana* v. *City & Cty. of Honolulu*, 447 F.3d 1172, 1185 (9th Cir. 2006) (citing *Friedman v. Bache Halsey Stuart Shields, Inc.*, 738 F.2d 1336, 1344 (D.C. Cir. 1984)).

ten balancing factors in *Tuite*, yet they directly address only the second factor—the impact of disclosure upon persons who have given information. As stated above in Section I.A., the record in this case contradicts Respondents' argument. Respondents can show no potential harm to law enforcement officials; the second *Tuite* factor favors disclosure.

Further, Petitioners' need for this information, which they can get nowhere else, outweighs any hypothetical harm. Thus factors nine and ten weigh in favor of disclosure. All other *Tuite* factors either tip toward Petitioners or are irrelevant.

A. The Need for this Information Far Outweighs Any Speculative and Unsubstantiated Harm.

Petitioners' need outweighs any purported harm that Respondents allege. The Court has agreed that Petitioners are entitled to determine who possesses information and documents relevant to the *Zadvydas* claims and who should be deposed, and to confirm that Respondents have reasonably conducted a search for and produced responsive documents. It has permitted "depositions of appropriate government personnel with knowledge of the Iraq repatriation agreement or program, and production of documents pertaining to that subject." Order ¶2(d), ECF 191, Pg.ID# 5362.

Thus far, Respondents have provided declarations of only two individuals, Messrs. Bernacke and Schultz, who have been present at these negotiations. Each has effectively declined to speculate whether Iraq will accept repatriation. At

most, they assert that "**ICE believes** that the central government of Iraq in Bagdad will permit the entry of detained Iraqi nationals subject to final orders of removal if the injunction is lifted." Bernacke Decl. ¶ 12, ECF 184-2, Pg.ID# 5073 (emphasis added); Schultz Decl. ¶ 8, ECF 158-2, Pg.ID# 4131 ("**ICE believes** that the central government of Iraq in Bagdad will issue travel documents should the court lift the injunction that currently prevents removal to Iraq.") (emphasis added). They do not assert that they themselves believe—much less know—that repatriations will be allowed. "ICE"—which of course consists of its officials whose names Respondents are declining to share—is said to have the asserted belief.

As is evident with Respondents' recent responses to Interrogatory No. 12, Messrs. Schultz and Bernacke lack complete and accurate information as well. While both had previously stated that there was an agreement with Iraq, now ICE and DHS claim there is no such agreement. ICE stated that: "There has been no international agreement in force, nor any written arrangement in effect . . . ." Ex. 1, ICE's Response to Interrogatory No. 1. DHS now claims only that "it understands that Iraq has agreed in principle to repatriate . . . ." Ex. 2 , DHS's Response to Interrogatory No. 1.

Respondents are using the law enforcement privilege to prevent Petitioners from obtaining key discovery from those who would be able to provide answers. Respondents' inconsistent and conflicting statements about the existence of a 2017

agreement and purported negotiations about that agreement with the Iraqi government make disclosure of these names all the more critical—especially given that 2 of the 5 names disclosed are the source of the inconsistent and conflicting statements ([redacted]), and the other three individuals ([redacted] King and Nealon) have limited involvement (3 out of the [redacted] disclosed in the responses from ICE and DHS). Ex. 2, DHS's Response to Interrogatory No. 12.

Petitioners also need the names and titles of Iraqi officials. Without knowing the identities of the individuals involved from Iraq and specifically their status, Petitioners are unable to evaluate whether there is a significant likelihood of class members' removal in the reasonably foreseeable future. There is no way to discern whether these purported negotiations were with lower-level government officials who lack any authority to make policy changes. Their identities are also necessary to ensure that Respondents are properly searching their records for email correspondence with these individuals, and other documents referencing them. *See Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978) (noting that Fed. R. Civ. P. 26 "has been construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case"); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947) ("Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. To that end, either party may compel the other to disgorge whatever

facts he has in his possession."). Petitioners are unable to gather this information from any other source; only the government can identify the individuals involved in the negotiations.[5] Thus, *Tuite* factors nine and ten (that this discovery is important to the case and unavailable from other sources) weigh in favor of disclosure. *See Tuite*, 98 F.3d at 1417; *see also In re Dep't of Homeland Sec.*, 459 F.3d at 570 (stating that courts should consider "the importance of the information sought to the plaintiff's case" and "whether the information is available through other discovery or from other sources").

B. The Remaining *Tuite* Factors are Either Irrelevant or Favor Disclosure.

Respondents fail to address the remaining *Tuite* factors, all of which either favor disclosure or are irrelevant. Factor 4—whether the information sought is factual data or evaluative summary—supports Petitioners, who seek only names, titles, and departments. *See In re Packaged Ice*, 2011 WL 1790189, at *7 (stating that the privilege protects suggestions, advice, recommendations and opinions, rather than factual and investigatory reports, data and surveys in government files). And factor 8—whether the plaintiff's suit is nonfrivolous and brought in good faith—similarly weighs toward disclosure. The Court has found that Petitioners'

[5] The U.S. Department of State may also have some information, but, given that it would also be represented by the Department of Justice, and that department is asserting the law enforcement privilege here, it is expected that the Department of State will also assert the privilege.

suit has merit, and in particular that this discovery is relevant. Order, ECF 191 Pg.ID# 5362. It has permitted "depositions of appropriate government personnel with knowledge of the Iraq repatriation agreement or program, and production of documents pertaining to that subject." *Id*. ¶ 2(d). The other *Tuite* factors do not apply and Respondents have not addressed them. Respondents should produce this information. *See Grimes v. Bessner*, No. 17-cv-12860, 2017 WL 5731765, at *2, *3 (E.D. Mich. Nov. 28, 2017) (applying *Tuite/Frankenhauser* factors to deny government's motion to quash based on law enforcement privilege) (Ex. 10).

CONCLUSION

For the foregoing reasons, the Court should reject Respondents' privilege objections and order disclosure of the names, titles and departments of all individuals involved in the meetings disclosed in their responses to Interrogatory No. 12, and the names of the individuals whose files were searched for records responsive to Petitioners' requests for production, as ordered by the Court.

Respectfully submitted,

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Attorney for Petitioner/Plaintiff Usama Hamama

Dated: April 11, 2018

CERTIFICATE OF SERVICE

I hereby certify that on April 11, 2018, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF filers of record.

By: */s/Kimberly L. Scott*
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EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

RESPONDENT/DEFENDANT ICE'S RESPONSE TO PLAINTIFF USAMA JAMIL HAMAMA'S FIRST SET OF INTERROGATORIES TO RESPONDENT KIRSTJEN NIELSEN

Pursuant to Federal Rule of Civil Procedure 33, Defendant ICE hereby objects and responds to Petitioners'/Plaintiffs' First Set of Interrogatories to All Respondents as follows:

INTERROGATORIES

1. **Describe each term of the Iraqi Agreement pertaining to the repatriation of and process for repatriating Iraqi Nationals under the Iraqi Agreement.**

RESPONSE:

Subject to and without waiver of the foregoing objections, Defendant ICE responds

as follows:

There has been no international agreement in force, nor any written arrangement in effect, between the governments of Iraq and the United States regarding the repatriation of Iraqi nationals. However, through discussions during this time, the governments of Iraq and the United States have reached an understanding of the process for repatriating Iraqi nationals.

As an initial matter, Iraq informed the United States that they had created an Inter-ministerial Committee of Deportation to commence the return of over 1,400 Iraqi nationals in the United States with final orders of removal. Defendant ICE understands that this committee is made up of representatives from the Prime Minister's Office, the Ministries of Justice, Foreign Affairs and Interior.

Defendant ICE understands that the Committee is intended to ensure that the appropriate Iraq ministries were reviewing deportation notices thoroughly and quickly and would be responsible for the following:

1. Consular access
2. Iraqi citizenship verification
3. Deportation court order review
4. Travel document issuance

As part of the removal process, the Government of Iraq (GOI) has indicated that it requires, after an alien's identity has been verified, that Iraqi embassy officials meet

with the individual. The interviews have been conducted either in person (including at designated points of embarkation) or via video with Iraqi nationals.

To establish citizenship, the GOI has decided to accept a wide range of photocopied evidence from U.S. government information systems, including various citizenship documentation or secondary information (including relatives' identification documents) confirming citizenship located in the Alien files. Previously, the Iraqi government had limited the type of identity documents that would be acceptable for issuance of a travel document, such as an original Iraq identification card or an original Iraq citizenship card.

2. Describe each criterion an Iraqi National must meet before Iraq will accept an Iraqi National for repatriation, under the Iraqi Agreement or otherwise.

RESPONSE:

It is ICE's understanding that there has been no international agreement in force, nor any written arrangement in effect, between the GOI and the United States regarding the criteria an Iraqi National must meet before the GOI will accept him or her for repatriation. However, through discussions in 2017, with the GOI, ICE's current understanding is that three criteria must be present before the GOI agrees to

repatriate an Iraqi national:

1. Indicia of Citizenship: The GOI requires some evidence that the person being repatriated is an Iraqi national. There is no litmus test or set of specific documents to establish Iraqi citizenship. The GOI may, depending on the facts of a specific case, consider a variety of evidence, including but not limited to: passports, national identification cards, documents from the Alien file, and family documents. If the GOI is not satisfied with the documentary evidence present in a specific case, the GOI will also consider statements made during the consular interview. It is Defendant's understanding that based on the evidence before it, the GOI assesses whether the individual is an Iraqi national.
2. Final Order: The United States will provide the GOI a copy of the Iraqi national's final order of removal.
3. Consular Interview: The GOI conducts a consular interview.

3. Describe each criterion for denying repatriation to an Iraqi National under the Iraqi Agreement, or otherwise.

RESPONSE:

It is ICE's understanding that there has been no international agreement in force, nor any written arrangement in effect, between the GOI and the United States regarding the criteria for the GOI denying repatriation of an Iraqi national. Defendant ICE is aware that direct requests sent by in individual to the Iraqi Embassies have been denied if an individual does not provide, as part of the request, a a representation that the individual wants to return to Iraq.Through discussions during 2017 and 2018, the governments of Iraq and the United States focused on what is required forthe GOI to accept an Iraqi national, not on what is required to deny repatriation. ICE incorporates by reference the response to Interrogatory No. 2.

4. Identify any travel documents that Iraq requires or will accept before accepting an Iraqi National for repatriation under the Iraqi Agreement or otherwise, and the procedures for obtaining the travel documents.

RESPONSE:

Objections:

Defendant ICE objects to Petitioners defining the phrase "travel document" in a manner that is inconsistent with how the phrase is commonly used in the context of immigration proceedings. In the immigration context, travel documents are issued by the receiving state (in this case Iraq) and allow an individual to travel to that state. However, Defendant ICE understands that for the purposes of responding to Petitioners' discovery requests the parties are in agreement that "[t]he term 'travel documents' used in Petitioners' discovery requests should be read as follows: 'travel and identity documents.'" ECF No. 254. Defendant ICE further understands that the exceptions are Interrogatory Numbers 4 and 5; Number 4 seeks only travel documents and excludes identity documents, whereas Number 5 seeks only identity documents (and any other document) other than travel documents."

Subject to and without waiver of the foregoing objections, Defendant ICE responds as follows:

In the immigration context, travel documents are issued by the receiving state (in this case Iraq) to allow an individual to travel to that state. In this context, it is Defendant ICE's understanding that the GOI issues: a GOI-issued valid passport; a GOI-issued one-time use laissez-passer; or a GOI-approved manifest of a charter

flight that is returning Iraqi nationals to Iraq. *See* Interrogatory No. 1 and No. 2 for the description of the travel document process.

5. For the time period since March 1, 2017, identify the documentation or evidence other than travel documents that Iraq requires or will accept before approving an Iraqi National for repatriation under the Iraqi Agreement or otherwise.

RESPONSE:

Objections:

Defendant objects to Petitioners defining the phrase "travel document" in a manner that is inconsistent with how the phrase is commonly used in the context of immigration proceedings. In the immigration context, travel documents are issued by the receiving state (in this case Iraq) and allow an individual to travel to that state. However, Defendant ICE understands that for the purposes of responding to Petitioners' discovery requests "the parties are in agreement that the term "travel documents" in Petitioners' discovery requests should be read as follows: "travel and identity documents." ECF No. 254. Defendant ICE further understands that the exceptions are Interrogatory Numbers 4 and 5; Number 4 seeks only travel documents and excludes identity documents, whereas Number 5 seeks only identity

documents (and any other document) other than travel documents."

It is Defendant ICE's understanding that there are no specific documents that GOI requires to issue a travel document. GOI has indicated that it considers available indicia of citizenship, which varies from case to case and may include originals or photocopies of various identity documents, such as those noted in Interrogatory No. 2. ICE incorporates by reference the answers to Interrogatories No. 1 and No. 2 for a description of the process to obtain travel documents and a non-exhaustive list of the examples of documents Iraq will now accept.

6. For each Class Member (identified by name and A-number) for whom ICE or another relevant department of the U.S. government has since March 1, 2017 requested travel documents from the Iraqi Ministry of Foreign Affairs (or another relevant department of the Iraqi government) for repatriation to Iraq, provide the following:

a. The date the request for the travel documents was made to the Iraqi government;

b. The type of travel documents obtained, the department of the Iraqi government issuing the travel documents, and the date the documents were issued;

c. If the request for the travel documents was denied, the department of the Iraqi government issuing the denial, the date of the denial and the reason given for the denial; and

d. Whether Iraq denied or approved repatriation of the Class Member, and, if denied, the basis for such denial.

e. If repatriation occurred, when, by what travel method (commercial air, charter air, etc.), and to what location.

f.

RESPONSE:

Defendant objects to Petitioners defining the phrase "travel document" in a manner that is inconsistent with how the phrase is commonly used in the context of immigration proceedings. In the immigration context, travel documents are issued by the receiving state (in this case Iraq) and allow an individual to travel to that state. However, Defendant ICE understands that for the purposes of responding to Petitioners' discovery requests "the parties are in agreement that the term "travel documents" in Petitioners' discovery requests should be read as follows: "travel and identity documents." ECF No. 254. Consistent with this understanding, Defendant ICE responds as follows:

See attached spreadsheet.

7. For each Class Member (identified by name and A-number) for whom ICE or another relevant department of the U.S. government has since March 1, 2017 requested from the Iraqi Ministry of Foreign Affairs (or another relevant department of the Iraqi government) to be repatriated to Iraq, provide the following:

a. The date of the request;

b. The response from the Iraqi government, the date of the response, the department of the Iraqi government issuing the response, and, if repatriation was denied, the basis for the denial; and

c. If the request for repatriation was granted, any conditions placed on the repatriation of the Class Member.

d. If repatriation occurred, when, by what travel method (commercial air, charter air, etc.), and to what location.

RESPONSE:

See attached spreadsheet.

8. For each Class Member (identified by name and A-number), state whether Iraq has agreed to the repatriation of that individual as of the following time:

a. On the date of the Class Member's arrest by ICE; and

b. On the date you answer this Interrogatory.

RESPONSE:

a. The GOI had committed to accept Iraqi nationals for repatriation, but at the time of any class member's arrest, a final approval would not have been issued because the GOI requires an interview, which cannot be scheduled until the individual is in ICE custody.

b. *See* Interrogatories No. 6 and No. 7 for the individual status of any travel document requests.

9. The declaration of John Schultz, ECF 81-4, Pg.ID# 2007, states that Iraq previously would accept only its nationals with unexpired passports, but that Iraq will now "authorize repatriation with other indicia of nationality." State what "other indicia of nationality" Iraq will accept for repatriation; the basis for the U.S. government's belief that the other indicia of nationality will be accepted, including the identification of the specific agreement(s) or document(s) stating this policy; and the criteria an

individual must or can meet before Iraq will accept an Iraqi National for repatriation.

RESPONSE:

Defendant ICE incorporates by reference the responses to Interrogatories No. 1 No. 2 and No. 12 for the descriptions of the process, examples of documents accepted, and ongoing discussions regarding repatriations. There has been no international agreement in force, nor any written arrangement in effect, between the governments of Iraq and the United States regarding repatriations, but Defendant ICE's basis for belief is the ongoing discussions with the GOI and the GOI's issuance of travel documents since March 2017 in responses to requests submitted using other indicia of nationality, such as photocopies of identity documents.

10. Explain each step (in sequence) that has since March 1, 2017 or will be taken by you or the government of Iraq to process an Iraqi National for removal if that Iraqi National does not have travel documents.

RESPONSE:

Objections:

Defendant ICE objects to Petitioners defining the phrase "travel document" in a manner that is inconsistent with how the phrase is commonly used in the context of immigration proceedings. In the immigration context, travel documents are

issued by the receiving state (in this case Iraq) and allow an individual to travel to that state. However, Defendant ICE understands that for the purposes of responding to Petitioners' discovery requests "the parties are in agreement that the term "travel documents" in Petitioners' discovery requests should be read as follows: "travel and identity documents." ECF No. 254. Consistent with this understanding, Defendant ICE responds as follows:

Defendant ICE objects to the phrase "will be taken" to the extent it requests information regarding "the government of Iraq." Specifically, ICE cannot answer regarding the future actions of a foreign government.

Subject to and without waiver of the foregoing objections, Defendant ICE responds as follows:

As a general rule, since March 1, 2017, the sequence for ICE requesting the repatriation of an Iraqi national who does not have a travel document is as follows:

1. ICE sends the GOI a request for a travel document. This includes providing a copy of any documents showing indicia of Iraqi nationality and the final order of removal.
2. If additional information is needed, the GOI will make a request for additional information to ICE and ICE responds.

3. Iraq makes a determination regarding whether the information is sufficient to establish that the individual is Iraqi. If the GOI has requested additional information, no final decision is made until the GOI receives a response to that request.
4. The GOI schedules an interview with the Iraqi national.
5. The GOI issues a travel document.
6. ICE makes arrangements to return the individual to Iraq.

11. For each Class Member (identified by name and A-number) who, prior to March 1, 2017, was living in the community, state whether ICE released that individual to the community because ICE determined that Iraq would not accept that individual for repatriation the reason ICE determined that Iraq would not accept the individual for repatriation, and whether the individual was subject to an order of supervision or other release conditions.

RESPONSE:

To address Respondents' objections to this Interrogatory, Petitioners revised it as follows:

Interrogatory 11: For each Class Member (identified by name and A-

number) who, prior to March 1, 2017, was living in the community, state whether ICE released that individual to the community because ICE determined that Iraq would not accept that individual for repatriation and the reason ICE determined that Iraq would not accept the individual for repatriation.

Objections:

a. Despite Petitioners' rewording of this Interrogatory, ICE continues to object to this interrogatory on the ground that it is overbroad and burdensome to the extent it seeks to obtain information that is not tracked in a statistically reportable manner and/or would require a burdensome manual search to gather the data and pertains to a subject matter outside the scope of this litigation and that potentially predates the commencement of this action.

b. Despite Petitioners' rewording of this Interrogatory, ICE continues to object to the interrogatory as it has no relevance on significant likelihood of removal in the reasonably foreseeable future, which is the *Zadvydas* issue. ICE has already stated that Iraq's practices were different prior to March 1, 2017, thus this point is not dispute and discovery is unnecessary.

Defendant ICE does not determine whether a foreign government will accept an individual for repatriation – the foreign government makes such a determination. Once an alien is subject to a final order of removal, ICE requests travel documents

from that foreign government in order to effectuate removal. The denial of a travel document request does not equate to a country denying repatriation– many travel document requests may be denied due to insufficient information, or a foreign government's own policies, at the time that the request was made. Travel document requirements may change over time, as is the case with Iraq, which revised its practices in 2017. ICE will, in some cases, determine to release an alien from custody under the applicable legal standard, which is a determination that there is no significant likelihood of removal in the reasonably foreseeable future. This determination which is dependent upon the facts and circumstances in an individual case. A determination that there is no significant likelihood of removal in the reasonably foreseeable future is not an ICE determination that a country will never accept an individual for repatriation. In fact, in cases such as Iraq, ICE's determination that there is a significantly likelihood of removal in the reasonably foreseeable future may change upon receipt of new information.

Defendant ICE understands that the court has ordered a review of the 30 A-files, as identified by petitioners, and ICE is conducting that review in compliance with that order. However, as ICE does not make a final determination regarding repatriation, ICE is instead reviewing for whether ICE released based on a determination that there was no significant likelihood of removal in the reasonably foreseeable future at the time of release. ICE's review is ongoing.

In addition, in response to the Court's order, ECF. No. 254 ¶ 38, ICE has reviewed its records as ordered and has determined that there is no single working file or system containing the information requested in interrogatory number 11, nor is the information centrally or easily available or in the custody of a single individual or office. Obtaining the information requires a manual review of each case, which includes case-by-case review of paper and electronic records. The electronic records for a case, if they exist, are not necessarily fully complete, and not electronically searchable – manual review of an individual case entry is required and such a search still requires review of paper records to verify accuracy of any information in the electronic system. In some cases, there are no electronic records due to age. Paper records may be in the custody of any ICE field office, including Offices of Chief Counsel or an ERO office, nation-wide, depending on the alien's location. The records may also be in the custody of another DHS component, such as USCIS, or in offsite storage. There are no centrally located or easily available records to respond to a broad request for historical information; case-by-case manual review is required. ICE is currently manually reviewing the 30 cases on the list provided by opposing counsel.

12. The name, title and department of the government (for both Iraq and the United States) of each individual negotiating the Iraqi Agreement, including the "ongoing diplomatic negotiations" referenced in the declaration of Michael V. Bernacke at paragraph 4 (ECF 184-2, Pg.ID# 5070-71), identification of the individuals authorized to enter into any agreement reached by the governments regarding the repatriation of Iraqi Nationals, and the date each individual engaged in the "ongoing diplomatic negotiations."

RESPONSE:

Objections:

Defendant ICE has not been involved in any diplomatic negotiations identifying a new process for the GOI to process removal cases. Any diplomatic negotiations and discussions would have been led by the U.S. Department of State. ICE has attended meetings with GOI and Department of State personnel as operational experts on the repatriation process. ICE's direct engagement as operational experts with Iraq, and the Department of State, is regarding the logistical and operational implementation of the travel document request and repatriation process, which are the subjects of the responses in interrogatories 1 and 2. ICE has provided dates on which these operational meetings occurred in the attached list. ICE is not aware of any participants at these meetings who were "individuals

authorized to enter into any agreement reached by the governments regarding the repatriation of Iraqi Nationals."

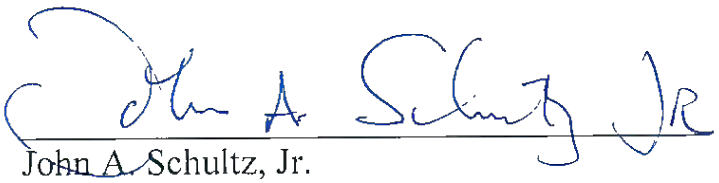
VERIFICATION

I, John A. Schultz, Jr. declare under penalty of perjury:

I am employed by U.S. Immigration and Customs Enforcement as the Deputy Assistant Director for the Removal Management Division (East).

I have read and know the contents of these responses. These responses on behalf of ICE were prepared after obtaining information available to ICE through its officers and employees and through its documents and records. These responses, subject to inadvertent and undiscovered errors, are based upon, and necessarily limited by, the records and information still in existence, able to be located, presently recollected, an thus far discovered in the course of preparing these responses. The responses regarding ICE are true and correct to the best of my knowledge, information, and belief.

Executed on March 23, 2018



John A. Schultz, Jr.
Deputy Assistant Director
Removal Management Division- East
Enforcement and Removal Operations
Immigration and Customs Enforcement
U .S. Department of Homeland Security

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Respondents.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

RESPONDENT/DEFENDANT U.S. DEPARTMENT OF HOMELAND SECURITY'S RESPONSES TO PETITIONER/PLAINTIFF USAMA JAMIL HAMAMA'S FIRST SET OF INTERROGATORIES

I. PRELIMINARY STATEMENT

Respondent U.S. Department of Homeland Security ("DHS") has not, at this time, fully completed its discovery and investigation in this action. All information contained herein is based solely upon such information and evidence as is available and known to Respondent DHS upon information and belief at this time. Further discovery, investigation, research and analysis may supply additional facts, and meaning to currently known information. Consistent with Fed. R. Civ. P. 26(e), Respondent DHS will amend any and all responses herein as additional facts are ascertained, legal research is completed, and analysis is undertaken. The responses herein are made in a good faith effort to supply as much information as is known to Respondent DHS at this time, consistent with the positions set forth in the Joint Statement of Issues, ECF No. 235.

II. GENERAL OBJECTIONS

1. DHS objects to the requests that impose or seek to impose any requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Local Rules and Orders of the Court.

2. DHS objects to the requests to the extent they seek disclosure of information protected under the attorney-client privilege, deliberative process privilege, law enforcement privilege, attorney work-product doctrine, or any other applicable privilege or immunity. Should any such disclosure by DHS occur, it is inadvertent and shall not constitute a waiver of any privilege or immunity.

3. DHS reserves all objections as to the competence, relevance, materiality, admissibility, or privileged status of any information provided in response to these requests, unless DHS specifically states otherwise.

Subject to and without waiving the foregoing objections and consistent with the Joint Statement of Issues, ECF No. 235, DHS provides the following responses:

1. Describe each term of the Iraqi Agreement pertaining to the repatriation of and process for repatriating Iraqi Nationals under the Iraqi Agreement.

RESPONSE:

DHS is unaware of any written agreement or arrangement between the governments of Iraq and the United States regarding repatriation of Iraqi Nationals. DHS lacks information sufficient to respond to the details of the repatriation process for Iraqi Nationals and defers to ICE regarding such details. Upon information and belief, DHS understands that Iraq has agreed in principle to repatriate Class Members and that requests for repatriation of Class Members could be coordinated by ICE Enforcement and Removal Operations ("ERO") through Government of Iraq.

2. Describe each criterion an Iraqi National must meet before Iraq will accept an Iraqi National for repatriation, under the Iraqi Agreement or otherwise.

RESPONSE:

DHS is unaware of any written agreement or arrangement between the governments of Iraq and the United States regarding repatriation of Class Members. DHS lacks information sufficient to respond regarding "each criterion an Iraqi National must meet" prior to being accepted by the Government of Iraq for repatriation. ICE is the component agency of DHS with responsibility for repatriation of Iraqi Nationals. Therefore, DHS refers Petitioners to the ICE response to Interrogatory No. 2 regarding the details of the repatriation process for Iraqi Nationals.

3. Describe each criterion for denying repatriation to an Iraqi National under the Iraqi Agreement, or otherwise.

RESPONSE:

DHS is not aware of any written agreement or arrangement between the governments of Iraq and the United States regarding repatriation of Class Members. DHS lacks information sufficient to respond regarding "each criterion an Iraqi National must meet" prior to being accepted by the Government of Iraq for repatriation. ICE is the component agency of DHS with responsibility for repatriation of Iraqi Nationals. Therefore, DHS refers Petitioners to the ICE response to Interrogatory No. 3 regarding the details of the repatriation process for Iraqi Nationals.

4. Identify any travel documents that Iraq requires or will accept before accepting an Iraqi National for repatriation under the Iraqi Agreement or otherwise, and the procedures for obtaining the travel documents.

RESPONSE:

DHS is not aware of any written agreement or arrangement between the governments of Iraq and the United States regarding repatriation of Class Members. DHS lacks information sufficient to respond regarding "each criterion an Iraqi National must meet" prior to being accepted by the Government of Iraq for repatriation. ICE is the component agency of DHS with responsibility for repatriation of Iraqi Nationals. Therefore, DHS refers Petitioners to the ICE response to Interrogatory No. 4 regarding the details of the repatriation process for Iraqi Nationals.

5. For the time period since March 1, 2017, identify the documentation or evidence other than travel documents that Iraq requires or will accept before approving an Iraqi National for repatriation under the Iraqi Agreement or otherwise.

RESPONSE:

DHS is not aware of any written agreement or arrangement between the governments of Iraq and the United States regarding repatriation of Class Members. DHS lacks information sufficient to respond regarding "each criterion an Iraqi National must meet" prior to being accepted by the Government of Iraq for repatriation. ICE is the component agency of DHS with responsibility for repatriation of Iraqi Nationals. Therefore, DHS refers Petitioners to the ICE response to Interrogatory No. 5 regarding the details of the repatriation process for Iraqi Nationals.

6. For each Class Member (identified by name and A-number) for whom ICE or another relevant department of the U.S. government has since March 1, 2017 requested travel documents from the Iraqi Ministry of Foreign Affairs (or another relevant department of the Iraqi government) for repatriation to Iraq, provide the following:

a. The date the request for the travel documents was made to the Iraqi government;
b. The type of travel documents obtained, the department of the Iraqi government issuing the travel documents, and the date the documents were issued;
c. If the request for the travel documents was denied, the department of the Iraqi government issuing the denial, the date of the denial and the reason given for the denial; and
d. Whether Iraq denied or approved repatriation of the Class Member, and, if denied, the basis for such denial.
e. If repatriation occurred, when, by what travel method (commercial air, charter air, etc.), and to what location.

RESPONSE:

Petitioners clarified that this interrogatory should be construed as directed only to U.S. Immigration and Customs Enforcement ("ICE"). Therefore, DHS defers to ICE for response and does not provide a separate response or objections; however, upon information and belief, DHS has not made a travel document request for an individual Class Member.

7. For each Class Member (identified by name and A-number) for whom ICE or another relevant department of the U.S. government has since March 1, 2017 requested from the Iraqi Ministry of Foreign Affairs (or another relevant department of the Iraqi government) to be repatriated to Iraq, provide the following:

a. The date of the request;
b. The response from the Iraqi government, the date of the response, the department of the Iraqi government issuing the response, and, if repatriation was denied, the basis for the denial; and
c. If the request for repatriation was granted, any conditions placed on the repatriation of the Class Member.
d. If repatriation occurred, when, by what travel method (commercial air, charter air, etc.), and to what location.

RESPONSE:

Petitioners clarified that this interrogatory should be construed as directed only to U.S. Immigration and Customs Enforcement ("ICE"). Therefore, DHS defers to ICE for response and does not provide a separate response or objections; however, DHS, upon information and belief, has not made a repatriation request for an individual Class Member.

8. For each Class Member (identified by name and A-number), state whether Iraq has agreed to the repatriation of that individual as of the following time:

a. On the date of the Class Member's arrest by ICE; and
b. On the date you answer this Interrogatory.

RESPONSE:

Petitioners clarified that this interrogatory should be construed as directed only to U.S. Immigration and Customs Enforcement ("ICE"). Therefore, DHS defers to ICE for response and does not provide a separate response or objections; however, DHS, upon information and belief, has no responsive information.

9. The declaration of John Schultz, ECF 81-4, Pg.ID# 2007, states that Iraq previously would accept only its nationals with unexpired passports, but that Iraq will now "authorize repatriation with other indicia of nationality." State what "other indicia of nationality" Iraq will accept for repatriation; the basis for the U.S. government's belief that the other indicia of nationality will be accepted, including the identification of the specific agreement(s) or document(s) stating this policy; and the criteria an individual must or can meet before Iraq will accept an Iraqi National for repatriation.

RESPONSE:

Respondent DHS objects to this interrogatory to the extent it calls for information relied upon by John Schultz in his declaration, ECF 81-4, because DHS did not participate in the drafting or review of that declaration. DHS lacks knowledge or information sufficient to form a belief as to what "other indicia of nationality" the Government of Iraq will accept for purposes of accepting an Iraqi National for repatriation. ICE is the component agency of DHS with responsibility for repatriation of Iraqi Nationals. Therefore, DHS refers Petitioners to the ICE response to Interrogatory No. 9.

10. Explain each step (in sequence) that has since March 1, 2017 or will be taken by you or the government of Iraq to process an Iraqi National for removal if that Iraqi National does not have travel documents.

RESPONSE:

DHS objects to this interrogatory to the extent it seeks information regarding repatriation of Iraqi Nationals who are not members of the class or subclasses certified in this action. DHS lacks knowledge or information sufficient to form a belief as to what steps are taken by ICE or the government of Iraq to process an Iraqi National without travel documents for removal. ICE is the component agency of DHS with responsibility for repatriation of Iraqi Nationals. Therefore, DHS refers Petitioners to the ICE response to Interrogatory No. 10.

11. For each Class Member (identified by name and A-number) who, prior to March 1, 2017, was living in the community, state whether ICE released that individual to the community because ICE determined that Iraq would not accept that individual for repatriation and the reason ICE determined that Iraq would not accept the individual for repatriation.

RESPONSE:

Petitioners clarified that this interrogatory should be construed as directed only to U.S. Immigration and Customs Enforcement ("ICE"). Therefore, DHS defers to ICE for response and does not provide a separate response or objections; however, DHS, upon information and belief, has no responsive information.

12. The name, title and department of the government (for both Iraq and the United States) of each individual negotiating the Iraqi Agreement, including the "ongoing diplomatic negotiations" referenced in the declaration of Michael V. Bernacke at paragraph 4 (ECF 184-2, Pg.ID# 5070-71), identification of the individuals authorized to enter into any agreement reached by the governments regarding the repatriation of Iraqi Nationals, and the date each individual engaged in the "ongoing diplomatic negotiations."

RESPONSE:

Respondent DHS objects to this interrogatory to the extent it calls for information relied upon by Michael Bernacke in his declaration, ECF 184-2, because DHS did not participate in the drafting or review of that declaration. DHS objects to this interrogatory, as the "name, title and department of the government (for both Iraq and the United States) of each individual negotiating the Iraqi Agreement" do not affect the terms of any agreement, to the extent one exists. DHS objects to this interrogatory

to the extent it requires identification of foreign government representatives, which is protected by the law enforcement privilege, the disclosure of which would impede law enforcement operations, namely the removal of foreign nationals with final orders of removal from the United States. DHS further objects to this interrogatory as not likely to lead to the discovery of admissible evidence and irrelevant to the permissible scope of discovery ordered by the Court. Subject to the foregoing privileges, Respondent DHS did not participate in "negotiations" but did participate in discussions with participants from the Government of the United States and Iraq on June 23, 2017, December 5, 2017 and January 9, 2018.

On June 23, 2017, Deputy Assistant Secretary for International Engagement Matthew King and Acting Assistant Director of ICE Thomas Homan spoke by telephone with a representative of the Government of Iraq.

On December 5, 2017, the U.S. Government primarily was represented by Ambassador James Nealon, Assistant Secretary for International Affairs, at a meeting in which a variety of issues, including the repatriation of Iraqi Nationals, was discussed. Ambassador Nealon was accompanied by additional DHS personnel. Representatives from the U.S. Department of State, Office of Iraq Affairs also were present for the meeting.

On January 9, 2018, the U.S. Government primarily was represented by John Schultz, Deputy Assistant Director, Enforcement and Removal Operations and Michael Bernacke, Unit Chief, Enforcement and Removal Operations, for Respondent ICE. Representatives from Respondent DHS's Office of Policy attended. Representatives from the U.S. Department of State, Office of Iraq Affairs also were present for the meeting.

VERIFICATION

I, Matthew H. King declare under penalty of perjury:

I am employed by the U.S. Department of Homeland Security, Office of International Affairs, as the Deputy Assistant Secretary, Office of International Engagement.

I have read and know the contents of these responses. These responses were prepared after obtaining information available to DHS through its officers and employees and through its documents and records. These responses, subject to inadvertent and undiscovered errors, are based upon, and necessarily limited by, the records and information still in existence, able to be located, presently recollected, an thus far discovered in the course of preparing these responses. The responses regarding DHS are true and correct to the best of my knowledge, information, and belief.

Executed on 27 MAR 18

Matthew H. King
Deputy Assistant Secretary
Office of International Engagement
U.S. Department of Homeland Security

EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF JOHN A. SCHULTZ JR.

I, John A. Schultz Jr., hereby make the following declaration with respect to the above-captioned matter:

1. I am the Deputy Assistant Director for the Removal Management Division East which encompasses the Asia and Europe Removal and International Operations (RIO) unit as well as the Middle East/East Africa unit within the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs (ICE), Enforcement and Removal Operation's (ERO) Removal Management Division (RMD). The RMD is located at ICE Headquarters in Washington, D.C. RMD provides guidance and assistance to officers attempting to obtain travel documents for foreign nationals who are ordered removed. RMD collaborates with embassies and consulates, as well as with interagency and international networks to facilitate the efficient removal of aliens from the United States. RMD provides nationwide Post-Order Custody Review (POCR) guidance, implements policy and procedures, and is responsible for providing case management support for aliens subject to a final order of removal.

2. I have been employed with ICE since April 2003, and I have worked with ERO since then. From July 2016 to present, I have been employed as the RMD East Deputy Assistant

Director in both an acting and permanent capacity.

3. This declaration is based upon my personal and professional knowledge, information obtained from other individuals employed by ICE, and information obtained from DHS records. I am aware of the facts and circumstances of *Hamama, et al., v. Adducci*, et al., 2:17-cv-11910, in the U.S. District Court for the Eastern District of Michigan, Southern Division, I also have knowledge of ICE's efforts to arrange for the removal of Iraqi nationals that have been ordered removed from the United States.

4. I am aware of the court's March 13, 2018 order that requires ICE to provide a declaration: (a) identifying the names and job titles of the potential custodians for whom ICE has collected records and other information responsive to Petitioners' discovery requests; (b) describing how the potential custodians were identified; and (c) describing the methodologies used to identify responsive documents and any culling methods. As a result of this order, I have identified the following potential custodians in addition to myself who have responsive documents because they are/were the individuals involved with the subject matter of this litigation:

   a. [redacted] Detention and Deportation Officer (DDO)

   b. [redacted] Supervisory Detention and Deportation Officer (SDDO)

   c. [redacted] Deputy Field Office Director (DFOD) for El Paso and former RMD-East Unit Chief for the Middle East/Eastern Africa

   d. Michael Bernacke, RMD-East Unit Chief for the Middle East/Eastern Africa

   e. [redacted] Assistant Director for Removal Management

   f. Thomas Homan, Acting Director of ICE

Once the potential custodians were identified, all individuals searching their records were provided a copy of the discovery requests for their review, unless stated otherwise. They were instructed to search their e-mail and files (both electronic and paper) for any information that could potentially be responsive to plaintiffs' requests for production. Potentially responsive materials were copied for discovery collection and placed in a queue to be uploaded to ICE's e-discovery software system for review, redaction, and production. None of the identified potential custodians identified any paper files responsive to the request.

5. I personally conducted a search of my electronic files and e-mails in my shared and personal drives on my computer. The Office of the Chief Information Officer (OCIO) collected all of my e-mails from January 2017 to March 2018. I understand that agency counsel plans to search my collected e-mails in the agency's e-discovery software system using the term "Iraq". An additional search of my e-mail was made for the following terms: '[redacted]@iraqiembassy.us", [redacted]@iraqiembassy.us", [redacted]@iraqiembassy.us". These email addresses belong to individuals with whom ICE corresponded in the Iraqi repatriation process.

6. DDO [redacted] was assigned to RIO headquarters (responsible for assisting filed offices in obtaining travel documents) from September 2014 to February 2018. He identified an electronic document folder for Iraq. Mr. [redacted] conducted an e-mail search of his entire e-mail for calendar year 2017 to the end of February 2018 for the following terms: "Iraq", "Baghdad", [redacted]@dod.gov", [redacted]@iraqiembassy.us", [redacted]@iraqiembassy.us", and

[redacted]@iraqiembassy.us". These email addresses belong to individuals with whom ICE corresponded in the Iraqi repatriation process.

7. SDDO [redacted] was detailed to RIO headquarters from April 2, 2017 until September 30, 2017. He identified an electronic document folder for Iraq. For his e-mail, he identified a separate e-mail folder related to his detail and Iraq issues. An additional search of his e-mail was made for the following terms: [redacted]@iraqiembassy.us", [redacted]@iraqiembassy.us", and [redacted]@iraqiembassy.us". These email addresses belong to individuals with whom ICE corresponded in the Iraqi repatriation process.
8. DFOD [redacted] was the RMD-East Unit Chief for the Middle East/Eastern Africa until September 2, 2017. He identified an electronic document folder for Iraq. For his emails, he identified three archive folders containing emails related to Iraq. He also searched other archive folders using the term "Iraq". An additional search of his e-mail was made for the following terms: [redacted]@iraqiembassy.us", [redacted]@iraqiembassy.us", [redacted]@iraqiembassy.us". These email addresses belong to individuals with whom ICE corresponded in the Iraqi repatriation process.
9. Unit Chief Michael Bernacke assumed his position on October 15, 2017. He conducted a search of his electronic files and e-mails. He identified an electronic document folder for Iraq and an email folder for Iraq. He also identified an ERO RMD Iraq folder, but a review of these documents determined that they are outside of the scope of discovery.
10. Assistant Director [redacted] conducted a search of her electronic document files and e-mails. She identified potentially responsive documents and emails, and provided those

for discovery collection. For her e-mail, she identified responsive emails using the term "Iraq".

11. Deputy Director and Senior Official Performing the Duties of the Director Homan was identified as a potential custodian of responsive documents. A copy of the Plaintiffs' Request for Production (RFP) was provided to staff in Mr. Homan's office. A staff member was asked to look for documents that were responsive to all 8 requests for production listed in the RFP. However, it was pointed out that it was unlikely that Mr. Homan would have responsive material for requests Nos. 5, 6, and 7. A staff member searched Mr. Homan's electronic files and email for responsive documents. Based on the language in the RFP, his staff came up with and separately used the terms "Iraqi National," "Iraqi Agreement," and "Iraqi Ministry of Foreign Affairs" to electronically search for responsive emails and documents stored electronically. A staff member reviewed the email and documents produced by the searches to identify potentially responsive documents and copied those documents for discovery collection. It was determined that Mr. Homan was unlikely to have any paper files responsive to the request.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 30th day of March, 2018.

John A. Schultz Jr.
Deputy Assistant Director
Removal Management Division
Washington, D.C.

EXHIBIT 7

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Respondents.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF DAVID J. PALMER

I, David J. Palmer, do hereby declare and say:

1. Since January 2017, I have been employed by the U.S. Department of Homeland Security ("DHS") as the Chief of Staff for the Office of the General Counsel. In this capacity, I supervise attorneys and other professional staff who are coordinating efforts at DHS Headquarters (DHS HQ) to respond to court orders and discovery requests in this case, as well as in other litigation in which DHS HQ is a party or has equities

2. Prior to my current position as Chief of Staff, I served as in a variety of roles within DHS Office of the General Counsel. From July 2015 through January 2017, I served as Associate General Counsel for the Legal Counsel Division. The Legal Counsel Division is responsible for providing legal advice on a variety of portfolios, including significant litigation, legislative affairs, civil rights and civil liberties, privacy, and matters of strategic oversight.

3. Prior to July 2015, beginning in July 2008, I served as Deputy Associate General Counsel, with extended periods of service as the Acting Associate General Counsel for the Legal Counsel

Division. From January 2008 through July 2008, I served as Senior Counsel for the Office for Civil Rights and Civil Liberties. Prior to joining DHS, I worked for approximately twenty (20) years in various roles with the U.S. Department of Justice.

4. After consideration of information available to me in my capacity as Chief of Staff for DHS OGC, the matters contained in this declaration are based upon my knowledge or information provided to me in my official capacity relating to the case of *Hamama, et al., v. Adducci, et al.*, 2:17-cv-11910, in the U.S. District Court for the Eastern District of Michigan, Southern Division, and the searches undertaken at DHS HQ, which were undertaken on the instructions of DHS OGC attorneys.

5. I have reviewed the Order Regarding Further Proceedings (ECF #254) and understand that pursuant to that orde, DHS must identify "the names and job titles of the custodians for whom Respondents have collected records and other information responsive to Petitioners' discovery requests and describing how the custodians were identified, the methodologies used to identify responsive documents (including the instructions given to custodians, such as the instruction to search email by author or recipient), and any culling methods used by Respondents to narrow the records collected prior to or during their review for records responsive to the discovery requests." ECF #254 at 15.

6. The Office of the General Counsel generally begins the process of identifying potential custodians by looking to the client subject matter experts on the particular issue that is the subject of the litigation. That is an iterative process that generally yields the identification of additional potential custodians, based on subject matter, portfolio and area of work. That is the process that was followed in this case.

7. As potential custodians were identified, they were given the discovery requests and a general description of the litigation. Custodians were asked to review the discovery requests and then to perform searches of their electronic and paper records to identify any potentially responsive

documents. Each potential custodian was responsible for completing the search and the Office of the General Counsel was available to answer any questions during that process.

8. Any potentially responsive documents were provided to agency counsel in the DHS Office of the General Counsel for a determination of responsiveness and to determine whether any claim of privilege or other protection from disclosure would be asserted. Agency counsel is still reviewing the provided documents and cannot provide a comprehensive list of all custodians with responsive documents at this time. As documents are produced, the custodians will be identified.

9. Individuals in the following offices were asked to search for responsive documents and information:

   Office of the Executive Secretariat

   Office of the Deputy Secretary

   Office of the General Counsel

   Office of Policy (including Office for International Affairs; Office for Border, Immigration and Trade Policy; and Screening Coordination Office)

   Office of Intelligence and Analysis

   Office of the Counterterrorism Coordinator

10. Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Executed on this 30th day of March 2018, in Washington, District of Columbia.

David J. Palmer
Chief of Staff
Office of the General Counsel
Department of Homeland Security
Washington, District of Columbia

EXHIBIT 9

ICE/ERO Officials

Declarant	ECF No.	Declaration Date	Relevant Statements
Michael V. Bernacke	ECF 184-2	December 22, 2017	• Identifies himself as Deputy Assistant Director for the Removal Management Division – East and states that his responsibilities include providing guidance and assistance to officers attempting to obtain travel documents for foreign nationals who are ordered removed and facilitating removal of aliens (¶ 1) • Discusses negotiations with Iraq on repatriation of Iraqi nationals, including the process of obtaining travel documents and planned 2017 charter flights (¶¶ 4-12)
Julius Clinton	*Ablahid v. Adducci*, Case No. 17-10640, ECF 7-1; filed in *Hamama* at ECF 84-8	May 9, 2017	• Identifies himself as a Detention and Deportation Officer who communicates with foreign government representatives to obtain travel documents for the removal of aliens with final orders of removal (¶¶ 1-3). • Discusses efforts in 2017 to remove an Iraqi national identified by name (¶¶ 5-8)
Julius Clinton	*Ablahid v. Adducci*, Case No. 17-10640, ECF 10-1; filed in *Hamama* at ECF 83-2, 84-2	June 12, 2017	• Identifies himself as a Detention and Deportation Officer who communicates with foreign government representatives to obtain travel documents for the removal of aliens with final orders of removal (¶¶ 1-3). • Discusses efforts to remove an Iraqi national identified by name, including statements about negotiations with Iraq in 2017 (¶¶ 5-9)

Kristopher Crowley	ECF 17-4 (sealed), 73-4 (redacting A-number)	June 19, 2017	• Identifies himself as a Supervisory Detention and Deportation officer whose duties include executing final orders of removal (¶¶ 1-2) • Discusses in detail the immigration case of a named Iraqi national (Al-Dilaimi) (¶¶ 3-9)
Elizabeth Estrada	ECF 81-9	July 19, 2017	• Identifies herself as a Deportation Officer and that she serves as an Acting Supervisory Detention & Deportation Officer (¶¶ 1-2) • Discusses supervision of other deportation officers that are in charge of obtaining travel documents and coordinating travel for the repatriation of aliens with final orders of removal (¶ 2) • Discusses in detail the immigration case of a named Iraqi national (Al Sokaini), including his arrest in 2017 (¶¶ 3-11)
Vernon Liggins	ECF 17-2 (sealed), 73-2 (redacting A-number)	June 19, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Discusses in detail the immigration case of a named Iraqi national (Hamama) (¶¶ 3-12)
Vernon Liggins	ECF 17-3 (sealed), 73-3 (redacting A-number)	June 19, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Discusses in detail the immigration case of a named Iraqi national (Ali) (¶¶ 3-12)
Vernon Liggins	ECF 17-5 (sealed), 73-5 (redacting A-number)	June 19, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Discusses in detail the immigration case of a named Iraqi national (Nissan) (¶¶ 3-10)

Vernon Liggins	ECF 81-12	July 20, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Ali) (¶¶ 3-5)
Vernon Liggins	ECF 81-13	July 20, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Nissan) (¶¶ 3-5)
Vernon Liggins	ECF 81-16	July 20, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Hamama) (¶¶ 3-7)
Vernon Liggins	ECF 81-17	July 20, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Al-Dilaimi) (¶¶ 3-6)
Caleb Lowe	ECF 81-6	July 19, 2017	• Identifies himself as a Supervisory Detention and Deportation Officer whose duties include supervising the removal of detained aliens arrested within the state of Michigan and the supervision of Deportation Officers (¶ 1) • States he is aware of the facts and circumstances on efforts to arrange for the removal of Iraqi nationals (¶¶ 2-3, 12)

Robert K. Lynch, Jr.	ECF 38-2	June 25, 2017	• Identifies himself as a Deputy Field Office Director whose duties include locating and apprehending aliens; preparing, presenting and defending deportation and exclusion proceedings; ensuring the physical removal of aliens from the US, and ensuring the execution of final orders of removal (¶¶ 1-2) • Provides update on immigration cases of named Iraqi nationals (Al Shimmery, Al Saedy, and Al Sokaini), and general statistics on MTRs filed by Iraqi nationals (¶¶ 3-6)
Martin Manuel	ECF 81-10	July 19, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Al Saedy) (¶¶ 3-10)
Martin Manuel	ECF 81-11	July 19, 2017	• Identifies himself as a Deportation Officer whose duties include executing final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Al-Shimmary) (¶¶ 3-10)
Joseph Salvatera	ECF 239-1	February 19, 2018	• Identifies himself as a Deportation Officer (¶ 1) • Discusses the arrest and detention of one of the Petitioners (¶¶ 2-4)

John A. Schultz, Jr.	ECF 81-4	July 20, 2017	• Identifies himself as Deputy Assistant Director for the Removal Management Division East and states that his responsibilities include providing guidance and assistance to officers attempting to obtain travel documents for foreign nationals who are ordered removed and facilitating removal of aliens (¶ 1) • Discusses history of removals to Iraq (¶¶ 4-5) • Discusses 2017 efforts with the Iraqi government to accept repatriation of Iraqi nationals (¶¶ 5-9)
John A. Schultz, Jr	ECF 158-2	November 30, 2017	• Identifies himself as Deputy Assistant Director for the Removal Management Division East and states that his responsibilities include providing guidance and assistance to officers attempting to obtain travel documents for foreign nationals who are ordered removed and facilitating removal of aliens (¶ 1) • Discusses negotiations with Iraq on repatriation of Iraqi nationals (¶¶ 4-10)
Parminderjit Sidhu	ECF 17-8 (sealed), 73-8 (redacting A-number)	June 19, 2017	• Identifies himself as a Deportation Officer whose duties include execution of final orders of removal (¶¶ 1-2) • Discusses in detail the immigration case of a named Iraqi national (Al-Issawi) (¶¶ 3-10)
Parminderjit Sidhu	ECF 17-7 (sealed), 73-7 (redacting A-number)	June 19, 2017	• Identifies himself as a Deportation Officer whose duties include execution of final orders of removal (¶¶ 1-2) • Discusses in detail the immigration case of a named Iraqi national (Barash) (¶¶ 3-14)

Parminderjit Sidhu	ECF 81-14	July 20, 2017	• Identifies himself as a Deportation Officer whose duties include execution of final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Barash) (¶¶ 3-5)
Parminderjit Sidhu	ECF 81-15	July 20, 2017	• Identifies himself as a Deportation Officer whose duties include execution of final orders of removal (¶¶ 1-2) • Provides update on immigration case of a named Iraqi national (Al-Issawi) (¶¶ 3-5)