



U.S. Department of Justice

*United States Attorney
Southern District of New York*

MEMO ENDORSED

*86 Chambers Street
New York, New York 10007*

February 13, 2019

BY ECF

The Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2203
New York, NY 10007

USDC SDNY
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DATE FILED: 2-15-19

Re: *Knight First Amendment Institute v. U.S. Dep't of Homeland Security et al.*,
No. 17 Civ. 7572 (ALC)

Dear Judge Carter:

I write respectfully on behalf of the United States Department of Homeland Security ("DHS"), United States Immigration and Customs Enforcement ("ICE"), the United States Department of Justice, Office of Legal Counsel ("OLC"), the United States Department of State ("State"), the United States Citizenship and Immigration Service ("USCIS"), United States Customs and Border Patrol ("CBP"), the United States Department of Justice, Office of Public Affairs ("OPA"), and the United State Department of Justice, Office of Information Policy ("OIP"), defendants in the above-referenced FOIA action, to request that the Court endorse the proposed briefing schedule, below. Plaintiff consents to this request.

On November 28, 2018, the Court endorsed the parties' proposed briefing schedule for their cross-motions for summary judgment, with the first brief due on January 15, 2019. *See* Dkt. No. 80. Pursuant to the Standing Order M10-468 issued by Chief Judge McMahon on December 27, 2018, all court deadlines in civil cases for which the United States Attorney's Office for the Southern District of New York has appeared as counsel of record were stayed and extended from December 21, 2018, to the date the President signed into a law a budget appropriation restoring Department of Justice funding. *See* Dkt. No. 82. Because the funding lapsed for 35 days, from December 21, 2018, to January 25, 2019, the Standing Order extended the deadline for the opening brief in this case by 35 days, to February 19, 2019.

After further negotiation, the parties have narrowed the issues in dispute and intend to move for partial summary judgment on the following issues: First, the government intends to move and plaintiff cross-move concerning the adequacy of the searches conducted by DHS, ICE and OLC, and the withholdings claimed by State. Second, the government intends move and plaintiff cross-

move concerning the withholdings claimed by ICE and USCIS.¹ Given the number of agencies and components involved in this litigation, the parties respectfully request that the Court approve separate briefing schedules for these issues. Specifically, the parties respectfully request that the Court endorse the following schedule:

As to DHS's, ICE's and OLC's Searches and State's Withholdings

February 26, 2019: the government's opening brief for partial summary judgment concerning the adequacy of the searches conducted by DHS, ICE and OLC, and the withholdings claimed by State;

March 28, 2019: plaintiff's cross-motion for partial summary judgment and opposition to the government's brief;

April 29, 2019: the government's opposition to plaintiff's cross-motion and reply in support of its motion; and

May 13, 2019: plaintiff's reply in support of the cross-motion.

As to ICE's and USCIS's Withholdings

March 15, 2019: the government's opening brief for partial summary judgment concerning the withholdings claimed by ICE and USCIS;

April 15, 2019: plaintiff's cross-motion for partial summary judgment and opposition to the government's brief;

May 15, 2019: the government's opposition to plaintiff's cross-motion and reply in support of its motion; and

May 29, 2019: plaintiff's reply in support of the cross-motion.

We thank the Court for considering this matter.

Respectfully,

GEOFFREY S. BERMAN
United States Attorney

SO ORDERED:

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HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

2-15-19

Cc: Counsel for Plaintiff (by ECF)

¹ Accordingly, plaintiff is not challenging: (1) the adequacy of the search conducted by CBP; (2) the adequacy of the searches conducted by or propriety of the withholdings claimed by OIP and OPA; or (3) the adequacy of the searches conducted by USCIS and State.