

1 BRIAN M. BOYNTON
Acting Assistant Attorney General

2 ELIZABETH J. SHAPIRO (D.C. Bar No. 418925)
3 Deputy Branch Director

4 ELIZABETH TULIS (NY Bar)
Trial Attorney
5 U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
6 Washington, D.C. 20005
Telephone: (202) 514-9237
7 Facsimile: (202) 616-8460
E-mail: elizabeth.tulis@usdoj.gov

8 *Attorneys for Defendants*

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 AMERICAN CIVIL LIBERTIES UNION)
FOUNDATION; AMERICAN CIVIL)
14 LIBERTIES UNION OF NORTHERN)
CALIFORNIA,)

15 Plaintiffs,)

16 v.)

17 DEPARTMENT OF JUSTICE; FEDERAL)
BUREAU OF INVESTIGATION;)
18 DEPARTMENT OF HOMELAND)
SECURITY; U.S. CUSTOMS AND)
19 BORDER PROTECTION; U.S.)
CITIZENSHIP AND IMMIGRATION)
20 SERVICES; U.S. IMMIGRATION AND)
CUSTOMS ENFORCEMENT;)
21 DEPARTMENT OF STATE,)

22 Defendants.)

No. 19-cv-290-EMC

CONSENT MOTION TO
EXTEND TIME TO FILE
REPLY/OPPOSITION

23 Pursuant to Civil Local Rules 6-3 and 7-11, Defendant Department of
24 Homeland Security (“Defendant”), by undersigned counsel, moves for a two-week
25 extension of time, from May 7, 2021, to May 21, 2021, for Defendant to file its
26 reply in support of its motion for summary judgment and opposition to Plaintiffs’

1 cross-motion for summary judgment with respect to the FOIA requests submitted
2 to U.S. Immigration and Customs Enforcement (“ICE”), U.S. Customs and Border
3 Protection (“CBP”) and U.S. Citizenship and Immigration Services (“USCIS”).
4 Plaintiffs consent to this request, provided the Court grants an extension of their
5 reply deadline to June 10, 2021.

6 1. On January 28, 2021 Defendant filed its motion for summary
7 judgment with respect to ICE, CBP, and USCIS.

8 2. On March 2, 2021, the Court granted Plaintiffs’ motion for an
9 extension of time to file their opposition and cross-motion and for an enlargement
10 of the page limit for their brief.

11 3. On March 25, 2021, Plaintiffs filed their opposition and cross-motion.

12 4. Defendants’ reply and opposition was originally due on April 23,
13 2021. On April 16, 2021, the Court granted Defendant’s motion to extend the
14 remaining summary judgment briefing deadlines by two weeks. (ECF No. 112).

15 5. Defendant has been diligently preparing its reply and opposition to
16 Plaintiffs’ cross-motion and carefully examining the arguments raised in Plaintiffs’
17 brief. In reviewing the issues raised by Plaintiffs and the record in this case, the
18 relevant DHS components have identified certain points in their original
19 declarations that require clarification or supplementation and entries in the Vaughn
20 indexes that require minor corrections, and are preparing supplemental declarations
21 and/or amended Vaughn indexes where appropriate. In addition, USCIS has
22 determined through its review that it can make additional disclosures in certain
23 documents and is preparing a supplemental release, which it expects to finalize
24 within two weeks.

25 6. Based on review of Plaintiffs’ filings and the record in this case, CBP
26 has determined that it will undertake a supplemental electronic search for

1 communications responsive to Parts 3 and 4 of Plaintiffs' FOIA request. CBP has
2 sought Plaintiffs' consent to defer further briefing on and resolution of Plaintiffs'
3 challenge to CBP's search until after the supplemental search and any resulting
4 productions are complete. Plaintiffs have responded that they will agree to this
5 request only on certain specified conditions, and the parties are currently
6 attempting to negotiate a stipulation on the issue.

7 7. Because of the unanticipated issues that Defendant is now addressing
8 in light of its review of Plaintiffs' filing, Defendant requires a brief extension of
9 time to prepare its filings in opposition to Plaintiffs' cross-motion, including
10 supplemental declarations and/or amended Vaughn indexes, and for USCIS to
11 prepare an accompanying supplemental release. Due to the need to prepare these
12 additional materials, and conflicting deadlines in other matters faced by
13 Defendant's counsel the week of May 10, Defendant respectfully requests a two-
14 week extension of time, from May 7, 2021, to May 21, 2021, to file its reply and
15 opposition to Plaintiffs' cross-motion.

16 8. This is Defendant's second request for an extension of the deadline
17 for Defendant to file its reply and opposition to Plaintiffs' cross-motion. Plaintiffs
18 consent to this request, on the condition that their revised reply deadline be
19 extended to June 10 as indicated below, to accommodate the Memorial Day
20 holiday.

21 Accordingly, Defendant respectfully requests that the remainder of the
22 summary judgment briefing schedule be revised as follows:

23
24 May 21, 2021: Defendant's reply and opposition to cross-motion.

25 June 10, 2021: Plaintiffs' reply.

26 June 24, 2021 (or TBD by Court): Hearing on parties' cross-motions.

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Respectfully submitted,

Dated: May 4, 2021

BRIAN M. BOYNTON
Acting Assistant Attorney General

ELIZABETH J. SHAPIRO (D.C. Bar No.
418925)
Deputy Branch Director

/s/
ELIZABETH TULIS (NY Bar)
Trial Attorney
U.S. Department of Justice,
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20005
Telephone: (202) 514-9237
elizabeth.tulis@usdoj.gov

Attorneys for Defendants

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO-OAKLAND DIVISION

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION, *et al.*,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, *et al.*,

Defendants.

Case No. 19-CV-00290-EMC

[PROPOSED] ORDER

Upon the consent motion filed by defendant Department of Homeland Security, and good cause appearing, the Court hereby orders that the briefing schedule for the parties' cross-motions for summary judgment with respect to the FOIA requests submitted to ICE, CBP, and USCIS is revised as follows:

May 21, 2021: Defendant's reply and opposition to cross-motion.

June 10, 2021: Plaintiffs' reply.

_____, 2021: Hearing on parties' cross-motions.

IT IS SO ORDERED.

1 Dated: May __, 2021

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3 Hon. Edward M. Chen
4 United States District Judge
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