

1 JEFFREY BOSSERT CLARK  
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

MOTION TO EXTEND  
TIME TO FILE MOTION FOR  
SUMMARY JUDGMENT

23 Pursuant to Civil Local Rules 6-3 and 7-11, Defendant Department of  
24 Homeland Security (“Defendant”), by undersigned counsel, moves for an  
25 extension of time, from December 10, 2020, to January 11, 2021, for Defendant to  
26 file a motion for summary judgment with respect to the FOIA requests submitted

1 to U.S. Immigration & Customs Enforcement (“ICE”), U.S. Customs and Border  
2 Protection (“CBP”) and U.S. Citizen and Immigration Services (“USCIS”), and for  
3 corresponding extensions of the remaining summary judgment briefing deadlines.  
4 Plaintiffs take no position on this request.

5 On August 20, 2020, Defendant provided Plaintiffs’ counsel with draft  
6 Vaughn information regarding the redactions and withholdings by ICE, CBP, and  
7 USCIS, with the aim of allowing the parties to negotiate a narrowing of the issues  
8 in dispute prior to summary judgment briefing. Defendant also provided Plaintiffs  
9 with a set of reprocessed documents from CBP, which lifted many of CBP’s  
10 original redactions. Defendant subsequently also provided Plaintiffs with  
11 reprocessed documents from USCIS. On August 31, the parties submitted a  
12 proposed summary judgment briefing schedule, which the Court so-ordered. (ECF  
13 No. 72).

14 On October 9, 2020, Plaintiffs responded to the information provided by  
15 USCIS, identifying one category of redactions that they did not plan to dispute and  
16 noting areas for further discussion and negotiation. On October 20, 2020, Plaintiffs  
17 responded to the information provided by CBP, identifying specific redactions that  
18 they did not plan to dispute and posing questions for further discussion.

19 On November 13, 2020, Plaintiffs responded to the draft Vaughn  
20 information provided by ICE, listing redactions that they did not plan on  
21 challenging and noting that an email with further queries would be forthcoming.  
22 On November 16, 2020, Plaintiffs followed up with respect to ICE, noting some  
23 redactions with respect to which they sought further information or clarification.

24 During October and November, the parties conferred via email regarding  
25 these issues and Defendant provided additional information or clarification in  
26 response to Plaintiffs’ queries, most recently on November 30, 2020, when

1 Defendant provided the information requested by Plaintiffs regarding certain ICE  
2 withholdings and Plaintiffs responded that based on that additional information,  
3 they would not be challenging those particular withholdings.

4 On October 30, 2020, while the parties were in the midst of their conferrals,  
5 Defendant, with Plaintiffs' consent, moved for an extension of the original  
6 summary judgment briefing schedule, which was to commence on November 4,  
7 2020. (ECF No. 82). On November 5, 2020, the Court granted that motion, moving  
8 the due date for Defendant's opening brief from November 4 to December 10 and  
9 granting corresponding extensions of the other briefing deadlines. (ECF No. 83).  
10 Accordingly, pursuant to the current schedule, Defendant's opening brief is due  
11 December 10, 2020.

12 Defendant respectfully requests a one-month extension of this schedule for  
13 the following reasons.

14 First, undersigned counsel was ill for a substantial portion of the last few  
15 weeks, and in addition is now attending to a number of matters in other cases.

16 Second, Defendant did not receive feedback from Plaintiffs regarding the  
17 draft Vaughn information from ICE until mid-November, and it was only a week  
18 ago, following the Thanksgiving holiday, that the parties concluded their  
19 discussions regarding the ICE redactions. In addition, USCIS's preparation of its  
20 final Vaughn index was delayed due to USCIS's reprocessing of a large number of  
21 records, which involved lifting many of the original redactions. Accordingly, the  
22 scope of the redactions at issue on summary judgment has only recently become  
23 clear, and the relevant components are still working to finalize Vaughn indexes and  
24 declarations for submission with Defendant's summary judgment motion.

25 Third, undersigned counsel will be on long-planned leave for the last week  
26 in December.

1 Accordingly, Defendant respectfully requests that the summary judgment  
2 briefing schedule be revised as follows:

3  
4 January 11, 2021: Defendant's motion for summary judgment.

5 February 22, 2021: Plaintiffs' opposition and cross-motion.

6 March 24, 2021: Defendant's reply and opposition to cross-motion.

7 April 8, 2021: Plaintiffs' reply.

8 April 22, 2021 (or TBD by Court): Hearing on parties' cross-motions.

9  
10 This is Defendant's second request for an extension of the briefing schedule  
11 for the cross-motions for summary judgment with respect to ICE, CBP, and  
12 USCIS. Plaintiffs take no position on this request.

13  
14 Respectfully submitted,

15 Dated: December 7, 2020

16 JEFFREY BOSSERT CLARK  
Acting Assistant Attorney General

17 ELIZABETH J. SHAPIRO (D.C. Bar No.  
18 418925)  
Deputy Branch Director

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

24 *Attorneys for Defendants*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 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:

- January 11, 2021: Defendant's motion for summary judgment.
- February 22, 2021: Plaintiffs' opposition and cross-motion.
- March 24, 2021: Defendant's reply and opposition to cross-motion.
- April 8, 2021: Plaintiffs' reply.
- \_\_\_\_\_, 2021: Hearing on parties' cross-motions.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Hon. Edward M. Chen  
United States District Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28