

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

COLOR OF CHANGE and CENTER FOR
CONSTITUTIONAL RIGHTS,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY and FEDERAL
BUREAU OF INVESTIGATION,

Defendants.

No. 16 Civ. 8215 (WHP)

STIPULATION AND [REDACTED] ORDER OF PARTIAL DISMISSAL

WHEREAS, Plaintiffs filed a complaint in this action seeking the release of certain records by the United States Department of Homeland Security (“DHS”) and the Federal Bureau of Investigation (“FBI”) (together, “Defendants”), pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”); and

WHEREAS, the allegations in the complaint concern FOIA requests dated July 5, 2016, that Plaintiffs submitted to Defendants (the “FOIA Requests”); and

WHEREAS, Defendants have searched for, processed, and released non-exempt portions of records responsive to the FOIA Requests; and

WHEREAS, the parties engaged in good faith discussions to narrow their disputes regarding the allegations in the complaint and, as part of such discussions, Plaintiffs identified certain documents produced by Defendants as to which disputes still existed, all of which had been released by DHS with redactions in full or in part (collectively, the “Challenged Documents”); and

WHEREAS, in March and April 2018, the parties filed cross-motions for partial summary judgment relating to the exemptions claimed by DHS with respect to the Challenged Documents (Dkts. No. 54 and 58); and

WHEREAS, on May 23, 2018, the Court entered an order which “ma[de] no judgment as to the adequacy of” DHS’s proffered *Vaughn* declaration in support of its motion for partial summary judgment, but directed DHS to “provide this Court with the documents underlying the parties’ cross motions for summary judgment for *in camera* review by June 6, 2018” (Dkt. No. 64); and

WHEREAS, by Opinion and Order dated July 9, 2018 (the “July 9th Order,” Dkt. No. 67), the Court upheld DHS’s withholdings of the Challenged Documents pursuant to Exemption 5 of FOIA, 5 U.S.C. § 552(b)(5), granted Defendants’ partial motion for summary judgment, and denied Plaintiffs’ motion for partial summary judgment, and;

WHEREAS, any and all disputes between the parties in this case relating to all documents processed and released by all Defendants in response to Plaintiffs’ FOIA Request, including the Challenged Documents, have been fully resolved;

IT IS HEREBY STIPULATED AND AGREED, by and between the parties as follows:

1. In addition to any and all claims relating to the Challenged Documents, which were addressed by the July 9th Order, the following claims in this action are dismissed with prejudice: any and all claims seeking the release of documents other than the Challenged Documents; any and all challenges to the adequacy of Defendants’ search for records responsive to the FOIA Requests; and any and all challenges to Defendants’ assertion of any exemption applied to documents other than the Challenged Documents.

2. The sole remaining unresolved claim in this action is Plaintiffs' demand or potential demand for an award of attorneys' fees, as to which all parties reserve all rights and defenses. Nothing in this Stipulation modifies the substantive legal standard otherwise applicable under law governing Plaintiffs' potential claim for attorneys' fees.

3. This Stipulation may be signed in counterparts, and facsimiles, copies, or scanned versions of signatures shall be acceptable as originals.

Date: New York, NY
August 6, 2018

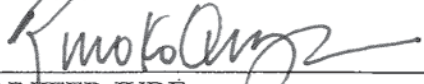
Date: New York, NY
August 7, 2018

CENTER FOR CONSTITUTIONAL
RIGHTS



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Date: Cleveland, OH
August 6, 2018

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SO ORDERED:

Dated: August 8, 2018
New York, New York



WILLIAM H. PAULEY III
U.S.D.J.