

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF )  
MASSACHUSETTS, STATE OF )  
CALIFORNIA, DISTRICT OF )  
COLUMBIA, STATES OF HAWAII, )  
ILLINOIS, IOWA, MARYLAND, )  
NEW YORK, OREGON, AND )  
WASHINGTON, )

*Plaintiffs,*

**Case No. 1:17-cv-12022-FDS**

vs.

UNITED STATES DEPARTMENT )  
OF HOMELAND SECURITY, )  
UNITED STATES IMMIGRATION AND )  
CUSTOMS ENFORCEMENT, UNITED )  
STATES CITIZENSHIP AND )  
IMMIGRATION SERVICES, and UNITED )  
STATES CUSTOMS AND BORDER )  
PROTECTION, )

*Defendants.*

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**LOCAL RULE 16.1(D) JOINT STATEMENT**

Pursuant to Fed. R. Civ. P. 26(f) and Local Rule 16.1(D), counsel for the parties have conferred and now hereby provide the following joint statement to the Court in anticipation of the Scheduling Hearing set for Wednesday, February 21, 2018.

**I. PROPOSED SCHEDULE FOR PRODUCTION OF RESPONSIVE DOCUMENTS**

On February 2, 2018, Plaintiff States responded to Defendants’ proposed production schedules by letter. In this letter, Plaintiff States sought production of all responsive documents no later than August 1, 2018, which would be thirteen months from the date the Plaintiff States

made the request for records. Plaintiffs' proposal for a final production date of no later than August 1, 2018 was based on the Defendants' initial representation of how many responsive records each agency would be reviewing.

Defendants respond that they are anticipating a longer production schedule based on the number of documents requested and the number of staff hours involved in redacting personal identifying information and formal review of the redactions. Defendant U.S. Immigration and Customs Enforcement anticipates full production by November 30, 2018. Defendant U.S. Citizen and Immigration Service anticipates full production by September 30, 2018. Defendant U.S. Customs and Border Protection anticipates full production by September 30, 2018.

## **II. PROPOSED DISCOVERY SCHEDULE**

Counsel have conferred and hereby jointly state that this case involves primarily questions of law, not adjudicative fact. As such, Plaintiffs do not anticipate engaging in extensive factual discovery. Plaintiffs take the position that any discovery would be completed within 90 days of Defendants' final production of responsive documents.

Defendants take the position that discovery in a Freedom of Information case is unusual and available only under special circumstances, and Defendants do not anticipate that discovery will be necessary or appropriate in this case. Defendants suggest that the Plaintiffs be required to apply to the Court for leave to promulgate discovery, should Plaintiffs take the position that discovery is necessary, and that the Court delineate the scope of discovery if the Court determines that discovery is warranted.

### **PROPOSED SCHEDULE FOR DISPOSITIVE MOTIONS**

Plaintiffs suggest that motions for summary judgment shall be due no later than thirty (30) days from close of discovery. Oppositions would be due no later than twenty-one days

following. Notwithstanding this proposed schedule, the parties retain the right, pursuant to Fed. R. Civ. P. 56(b), to file motions for summary judgment at any point prior to 30 days following close of discovery.

Defendants suggest that motions for summary judgment, if appropriate, be due 30 days after the three Defendants have completed production of responsive documents. The anticipated date for motions is December 31, 2018. Defendants suggest that before their motions for summary judgment are due that the Court provide a means for Defendants to ascertain what objections Plaintiffs have to the productions, so that Defendants are able to address them in Defendants' motions.

### III. CERTIFICATIONS

The parties' Local Rule 16.1(D)(3) certifications are submitted with this filing.

Respectfully submitted,

PLAINTIFF STATES,  
By their Authorized Representative,

ANDREW E. LELLING  
United States Attorney

MAURA HEALEY  
ATTORNEY GENERAL

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I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by email on February 15, 2018.

/s Jonathan Sclarsic