

**U.S. District Court  
District of Oregon (Portland (3))  
CIVIL DOCKET FOR CASE #: 3:18-cv-00247-JR**

American Civil Liberties Union of Oregon, Inc. v. U.S.  
Department of Homeland Security et al  
Assigned to: Magistrate Judge Jolie A. Russo  
Cause: 05:552 Freedom of Information Act

Date Filed: 02/07/2018  
Jury Demand: None  
Nature of Suit: 895 Freedom of  
Information Act  
Jurisdiction: Federal Question

**Plaintiff**

**American Civil Liberties Union of  
Oregon, Inc.**

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**TERMINATED: 09/04/2018**

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**TERMINATED: 10/03/2019**

V.

**Defendant**

**U.S. Department of Homeland Security**

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**Defendant**

**U.S. Immigration and Customs  
 Enforcement**

represented by **Kevin C. Danielson**  
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Date Filed	#	Docket Text
02/07/2018	<u>1</u>	Complaint. Filing fee in the amount of \$400 collected. Agency Tracking ID: 0979-5305126 Filer is subject to the requirements of Fed. R. Civ. P. 7.1. Jury Trial Requested: No. Filed by American Civil Liberties Union of Oregon, Inc. against U.S. Department of Homeland Security, and U.S. Immigration and Customs Enforcement (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Civil Cover Sheet Civil Cover Sheet, # <u>12</u> Proposed Summons USA DofO, USA DoJ, Dept of Homeland Security). (Green, Derek) Modified to correct parties in docket text on 2/7/2018 (sss). (Entered: 02/07/2018)
02/07/2018	<u>2</u>	Corporate Disclosure Statement . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 02/07/2018)
02/08/2018	<u>3</u>	Notice of Case Assignment to Magistrate Judge Paul Papak and Discovery and Pretrial Scheduling Order. <b>NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5.</b> Discovery is to be completed by 6/8/2018. Joint Alternate Dispute Resolution Report is due by 7/9/2018. Pretrial Order is due by 7/9/2018. Ordered by Magistrate Judge Paul Papak. (jtj) (Entered: 02/08/2018)
02/08/2018	<u>4</u>	Summons Issued Electronically as to U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement. <b>NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5.</b> (jtj) (Entered: 02/08/2018)
02/13/2018	<u>5</u>	Amended Corporate Disclosure Statement . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 02/13/2018)
03/14/2018	<u>6</u>	Answer to <u>1</u> Complaint,, . Filed by U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security. (Danielson, Kevin) (Entered: 03/14/2018)
03/14/2018	<u>7</u>	<b>ORDER</b> issued by Magistrate Judge Paul Papak: Rule 16 Conference set for 5/7/2018 at 1:30PM in Portland Chambers before Magistrate Judge Paul Papak. Local Rules 16-2(b) and 26-1 require that counsel confer prior to the conference. At the conference, counsel should be prepared to discuss the status of the case, relevant dates and deadlines, and any other significant issues. If consents are going to be filed, it is helpful if they are filed prior to the time of the conference, particularly if a firm trial date is desired. (gm) (Entered: 03/14/2018)
05/04/2018	<u>8</u>	Joint Status Report . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 05/04/2018)
05/04/2018	<u>9</u>	Fed. R. Civ. P. 26(a)(1) Agreement . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 05/04/2018)
05/07/2018	<u>10</u>	<b>MINUTES OF PROCEEDINGS</b> before Magistrate Judge Paul Papak: Rule 16 Conference held 5/7/18. Order: All case deadlines are Stayed. Formal order to follow.

		Order: Setting a Telephonic Status Conference for 6/26/2018 at 10:00AM in Portland Chambers before Magistrate Judge Paul Papak. The parties shall call into the court's conference line (phone number to be provided via separate e-mail) five minutes prior to the scheduled conference time. The court will join the conference call at or shortly after the appointed time. Derek Green present as counsel for plaintiff(s). Kevin Danielson present as counsel for defendant(s). Court Reporter: (None). (gm) (Entered: 05/07/2018)
05/07/2018	<u>11</u>	<b>ORDER</b> regarding discovery issues. Signed on 5/7/18 by Magistrate Judge Paul Papak. (gm) (Entered: 05/08/2018)
06/26/2018	12	<b>MINUTES OF PROCEEDINGS</b> before Magistrate Judge Paul Papak: Telephonic Status Conference held 6/26/18. Order: All case deadlines remain Stayed. Formal order to follow. Order: Setting a further Telephonic Status Conference for 8/31/2018 at 10:00AM in Portland Chambers before Magistrate Judge Paul Papak. The parties shall call into the court's conference line (phone number to be provided via separate e-mail) five minutes prior to the scheduled conference time. The court will join the conference call at or shortly after the appointed time. Derek Green; Alicia LeDuc; Kelly Simon present as counsel for plaintiff(s). Kevin Danielson present as counsel for defendant(s). Court Reporter: (None). (gm) (Entered: 06/27/2018)
06/26/2018	<u>13</u>	<b>ORDER:</b> Defendants are to produce 2,500 pages of records per month in July and in August 2018. Signed on 6/26/18 by Magistrate Judge Paul Papak. (gm) (Entered: 06/27/2018)
08/30/2018	<u>14</u>	Status Report by American Civil Liberties Union of Oregon, Inc.. Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 08/30/2018)
08/31/2018	16	<b>MINUTES OF PROCEEDINGS</b> before Magistrate Judge Paul Papak: Telephonic Status Conference held 8/31/18. Formal order to follow. Order: The parties shall file a formal Joint Status Report as specified at the conference by no later than 11/19/2018. Derek Green; Alicia LeDuc; Leland Baxter-Neal present as counsel for plaintiff(s). Kevin Danielson present as counsel for defendant(s). Court Reporter: (None). (gm) (Entered: 09/05/2018)
09/04/2018	<u>15</u>	Notice of Attorney Substitution:Attorney Leland Baxter-Neal is substituted as counsel of record in place of Attorney Kelly K. Simon Filed by American Civil Liberties Union of Oregon, Inc.. (Simon, Kelly) (Entered: 09/04/2018)
09/04/2018	<u>17</u>	<b>ORDER:</b> I order Defendants to produce in the month of September 2018 all documents in their possession that are subject to the seventeen (17) search terms provided by Plaintiff and related to the September 2017 incident. I order Defendants to produce 5,000 pages of records per month in October and November 2018 and to make a good faith effort to avoid producing duplicates in that document production. I order that the parties submit a formal Joint Status Report on or before November 19, 2018. Signed on 9/4/18 by Magistrate Judge Paul Papak. (gm) (Entered: 09/05/2018)
09/20/2018	<u>18</u>	Notice of Case Reassignment: This case has been reassigned from Magistrate Judge Paul Papak to Magistrate Judge Jolie A. Russo. (eo) (Entered: 09/20/2018)
11/19/2018	19	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Granting Defendants' unopposed E-mail Request dated 11/19/18 for a 2-day extension of time as follows: The parties shall file a formal Joint Status Report no later than 11/21/2018. (gm) (Entered: 11/19/2018)
11/21/2018	<u>20</u>	Joint Status Report . Filed by American Civil Liberties Union of Oregon, Inc.. (Attachments: # <u>1</u> Attachment Declaration of ICE Deputy FOIA Officer Toni Fuentes) (Green, Derek) (Entered: 11/21/2018)
11/27/2018	21	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Setting a Telephonic Scheduling Conference for 11/28/2018 at 3:00PM in Portland Chambers before Magistrate Judge Jolie A. Russo. (gm) (Entered: 11/27/2018)
11/28/2018	22	<b>MINUTES of Proceedings:</b> Telephone Status and Scheduling Conference held before Judge Russo. At the parties' request, the court held a telephone hearing to discuss plaintiff's FOIA Request and defendants' document production schedule. Defendants are ordered to produce all outstanding documents (approximately 18,000) by July 1, 2019. Defendants' production amount may fluctuate depending on agency resources

		each month. Production must be at a rate of at least 2,000 documents per month with a larger number as defendants' resources allow. Any issues regarding document redaction will be decided upon completion of the document production. Plaintiff's request for discovery into defendants' resource allocation is denied. Plaintiff may return to the court with any additional information that may controvert defendants' declaration regarding ICE FOIA Office Workload and Resources, at which point the Court will reconsider plaintiff's request to increase production or engage in limited discovery relating to ICE's resources, technologies, and prioritization practices. Finally, the parties are ordered to file a Joint Status Report as well as a proposed case schedule by July 15, 2019. Derek Green, Mathew dos Santos, Alicia LeDuc, Leland Baxter-Neal present as counsel for plaintiff. Kevin Danielson present as counsel for defendant. Magistrate Judge Jolie A. Russo presiding. (peg) Modified on 11/30/2018 to correct names of counsel present for Plaintiff. NEF regenerated to the parties. (gm) (Entered: 11/29/2018)
12/27/2018	<u>23</u>	Unopposed Motion for Stay of Deadlines in Light of Lapse of Appropriations. Filed by All Defendants. (Danielson, Kevin) (Entered: 12/27/2018)
12/27/2018	24	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Granting the Federal Defendants' Unopposed Motion for Stay of Deadlines in Light of Lapse of Appropriations <u>23</u> . The deadlines in this case are Stayed until Department of Justice attorneys are permitted to resume their usual civil litigation functions. Counsel shall notify the Court as soon as Congress has appropriated funds for the Department and move to extend deadlines accordingly. (gm) (Entered: 12/27/2018)
01/30/2019	<u>25</u>	Notice re Order on motion for stay, 24 Filed by U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement. (Related document(s): Order on motion for stay, 24 .) (Danielson, Kevin) (Entered: 01/30/2019)
01/30/2019	26	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Based on the Federal Defendants' Notice of Restoration <u>25</u> , the Stay of this case due to appropriations issue is Lifted. This case shall proceed as directed in the court's earlier Order 22 . (gm) (Entered: 01/30/2019)
02/07/2019	<u>27</u>	Unopposed Motion to Modify the Scheduling Order. Filed by All Defendants. (Danielson, Kevin) (Entered: 02/07/2019)
02/08/2019	28	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Defendants' unopposed Motion to Modify the Scheduling Order <u>27</u> is Granted. By the end of February 2019, defendants shall produce a minimum of 2,000 pages of documents. Thereafter, defendants' production must be at a rate of at least 2,000 documents per month with a larger number as agency resources allow. All outstanding documents are due by August 1, 2019. The parties are ordered to file a Joint Status Report as well as a proposed case schedule by August 15, 2019. (gm) (Entered: 02/08/2019)
08/13/2019	<u>29</u>	Joint Status Report . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 08/13/2019)
08/13/2019	30	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Granting the parties' request as outlined in their Joint Status Report <u>29</u> for an extension of time to 9/16/2019 to submit their proposed case schedule. Counsel are also reminded to include the correct judge's initials 'JR' following the case number on all future pleadings. (gm) (Entered: 08/13/2019)
09/16/2019	<u>31</u>	Joint Status Report . Filed by American Civil Liberties Union of Oregon, Inc.. (LeDuc, Alicia) (Entered: 09/16/2019)
09/23/2019	32	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Upon review of the parties' Joint Status Report <u>31</u> , the Court sets the following schedule: The parties are to submit a proposed case schedule by 10/25/2019. Order: Setting a Telephonic Status Conference for 11/4/2019 at 2:00PM in Portland Chambers before Magistrate Judge Jolie A. Russo. (gm) (Entered: 09/23/2019)
10/03/2019	<u>33</u>	Notice of Attorney Withdrawal: <i>Mathew W. dos Santos</i> Filed by American Civil Liberties Union of Oregon, Inc.. (dos Santos, Mathew) (Entered: 10/03/2019)
10/25/2019	<u>34</u>	Proposed Joint Case Management Schedule . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 10/25/2019)

11/04/2019	35	<b>MINUTES OF PROCEEDINGS</b> before Magistrate Judge Jolie A. Russo: Telephonic Status Conference held 11/4/19. Order: Setting a further Telephonic Status Conference re: case management/discovery issues for 11/13/2019 at 2:00PM in Portland Chambers before Magistrate Judge Jolie A. Russo. Alicia LeDuc; Derek Green; Leland Baxter–Neal present as counsel for plaintiff(s). Kevin Danielson present as counsel for defendant(s). Court Reporter: (None). (gm) (Entered: 11/04/2019)
11/13/2019	36	<b>MINUTES OF PROCEEDINGS</b> before Magistrate Judge Jolie A. Russo: Telephonic Status Conference held 11/13/19. Order: Resetting the following deadlines: Defendants' Dispositive motion due by 1/15/2020. Plaintiff's Response to dispositive motion and cross–motion due by 2/21/2020. Defendants' Reply to response to dispositive motion and response to cross–motion due by 3/20/2020. Plaintiff's Reply to cross–motion due by 4/17/2020. All other case management deadlines are Stayed at this time. Defendants shall submit a declaration within 30 days of the date of this order if they are unable to comply; the declaration must detail why the current 90 day production schedule is unfeasible and include a proposed compliance date. Order: Setting a further Telephonic Status Conference for 2/10/2020 at 1:30PM in Portland Chambers before Magistrate Judge Jolie A. Russo. Alicia LeDuc; Derek Green; Leland Baxter–Neal present as counsel for plaintiff(s). Kevin Danielson present as counsel for defendant(s). Court Reporter: (None). (gm) (Entered: 11/13/2019)
12/13/2019	<u>37</u>	Unopposed Motion <i>to Modify the Scheduling Order</i> . Filed by All Defendants. (Danielson, Kevin) (Entered: 12/13/2019)
12/13/2019	<u>38</u>	Declaration of Toni Fuentes . Filed by All Defendants. (Related document(s): Motion – Miscellaneous <u>37</u> .) (Danielson, Kevin) (Entered: 12/13/2019)
12/16/2019	39	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Granting Defendants' Unopposed Motion to Modify the Scheduling Order (Motion for Extension of Time) <u>37</u> as follows: ICE will submit a detailed declaration explaining the reason it needs more time and ask until 3/27/2020, to provide the documents with the domain names unredacted. Consistent with the above, ICE will apply good faith efforts to make rolling monthly productions of documents with the domain names unredacted to ACLU of Oregon, with production of such records to be complete in all events by 3/27/2020. ICE will provide to Plaintiff a summary of its search by 1/10/2020, that will provide the categories of employees who conducted the search, the data bases that were searched, and the search terms. Plaintiff agrees to identify by 1/20/2020: (i) specific records by BATES number being challenged, (ii) an additional sample set of produced records challenged on exemption grounds, (iii) whether Plaintiff challenges the adequacy of the search, and (iv) any additional outstanding issues for summary judgment. Defendants' Dispositive motion due by 3/2/2020. Plaintiff's Response to dispositive motion and cross–motion due by 4/6/2020. Defendants' Reply to response to dispositive motion and response to cross–motion due by 5/4/2020. Plaintiff's Reply to cross–motion due by 6/1/2020. (gm) (Entered: 12/16/2019)
12/16/2019	40	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Resetting the Telephonic Status Conference from 2/10/2020 at 1:30PM to 3/30/2020 at 1:30PM in Portland Chambers before Magistrate Judge Jolie A. Russo. (gm) (Entered: 12/16/2019)
02/28/2020	<u>41</u>	Unopposed Motion for Extension of Time . Filed by All Defendants. (Danielson, Kevin) (Entered: 02/28/2020)
02/28/2020	42	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Granting Defendant's Unopposed Motion for Extension of Time <u>41</u> as follows: Defendants' Dispositive motion due by 3/6/2020. Plaintiff's Response to dispositive motion and cross–motion due by 4/13/2020. Defendants' Reply to response to dispositive motion and response to cross–motion due by 5/11/2020. Plaintiff's Reply to cross–motion due by 6/8/2020. (gm) (Entered: 02/28/2020)
03/06/2020	<u>43</u>	Motion for Extension of Time . Filed by U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement. (Danielson, Kevin) (Entered: 03/06/2020)
03/09/2020	<u>44</u>	Response in Opposition to Motion for Extension of Time <u>43</u> . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 03/09/2020)
03/12/2020	<u>45</u>	Reply <i>in Support</i> to Motion for Extension of Time <u>43</u> . Filed by All Defendants. (Danielson, Kevin) (Entered: 03/12/2020)

03/12/2020	46	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Defendant's Motion for Extension of Time <u>43</u> is Granted. Defendant represents both that the information contained in its pending motion came directly from ICE's counsel and there are no further details to add via a declaration, and that ICE is on track to produce the remaining domain-name documents prior to the current deadline. In addition, defendant represents that the erroneous Vaughn index is a draft document that was not finalized, but nonetheless a finalized and corrected version will be produced pursuant to defendant's motion for summary judgment. Finally, defendant has agreed to produce a complete set of documents as soon as the corrected Vaughn index is finished; until that time, the complete set of documents to be re-released cannot be determined. Accordingly, none of the conditions requested by plaintiff in regard to defendant's proposed extension, which they do not oppose, appear warranted. Any remaining issues regarding production or the Vaughn index can be raised at the Telephone Status Conference scheduled for 3/30/2020. The dispositive motion briefing schedule is extended as follows: Defendants' Dispositive motion due by 4/3/2020. Plaintiff's Response to dispositive motion and cross-motion due by 5/11/2020. Defendants' Reply to response to dispositive motion and response to cross-motion due by 6/8/2020. Plaintiff's Reply to cross-motion due by 7/6/2020. (gm) (Entered: 03/12/2020)
03/30/2020	47	<b>MINUTES OF PROCEEDINGS</b> before Magistrate Judge Jolie A. Russo: Telephonic Status Conference held 3/30/20. Order: ICE to produce the renumbered and corrected domain-name documents to plaintiffs by 4/6/2020. The dispositive motion briefing schedule is extended as follows: Defendants' Dispositive motion due by 4/7/2020. Plaintiff's Response to dispositive motion and cross-motion due by 5/15/2020. Defendants' Reply to response to dispositive motion and response to cross-motion due by 6/12/2020. Plaintiff's Reply to cross-motion due by 7/10/2020. Alicia LeDuc; Leland Baxter-Neal present as counsel for plaintiff(s). Kevin Danielson present as counsel for defendant(s). Court Reporter: (None). (gm) (Entered: 03/30/2020)
04/07/2020	<u>48</u>	Motion for Summary Judgment . Filed by All Defendants. (Danielson, Kevin) (Entered: 04/07/2020)
04/07/2020	<u>49</u>	Declaration of Fernando Pineiro . Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Danielson, Kevin) (Entered: 04/07/2020)
04/07/2020	50	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Setting Defendants' Motion for Summary Judgment <u>48</u> on the under advisement calendar of 7/13/2020. (gm) (Entered: 04/07/2020)
05/12/2020	<u>51</u>	Unopposed Motion for Extension of Time to File a Response/Reply <i>Plaintiff's Motion to Modify Scheduling Order</i> to Motion for Summary Judgment <u>48</u> . Filed by American Civil Liberties Union of Oregon, Inc.. (Green, Derek) (Entered: 05/12/2020)
05/12/2020	52	<b>ORDER</b> issued by Magistrate Judge Jolie A. Russo: Granting Plaintiff's Unopposed Motion for Extension of Time <u>51</u> as follows: Plaintiff's Response to dispositive motion and cross-motion due by 6/15/2020. Defendants' Reply to response to dispositive motion and response to cross-motion due by 7/13/2020. Plaintiff's Reply to cross-motion due by 8/10/2020. Order: Resetting Defendants' Motion for Summary Judgment <u>48</u> from 7/13/2020 to the under advisement calendar of 8/17/2020. (gm) (Entered: 05/12/2020)