

**U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:17-cv-21382-DPG**

American Civil Liberties Union of Florida v. U.S. Department of
Homeland Security et al
Assigned to: Judge Darrin P. Gayles
Cause: 05:0552 Freedom of Information Act

Date Filed: 04/12/2017
Date Terminated: 01/09/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information
Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**American Civil Liberties Union of
Florida**

represented by **Amien Kacou**
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V.

Defendant

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Defendant

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Kari D'Ottavio
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Matthew J. Berns
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 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/12/2017	<u>1</u>	COMPLAINT for declaratory and injunctive relief for violation of the Freedom of Information Act against U.S. Customs and Border Protection, U.S. Department of Homeland Security. Filing fees \$ 400.00 receipt number 113C-9647763, filed by American Civil Liberties Union of Florida, Inc.. (Attachments: # <u>1</u> Exhibit FOIA Request (Miami), # <u>2</u> Exhibit FOIA Request (Tampa), # <u>3</u> Exhibit U.S. Postal Service Priority Tracking, # <u>4</u> Exhibit Tracking Results (Miami), # <u>5</u> Exhibit Tracking Results (Tampa), # <u>6</u> Exhibit Tracking Results (Headquarters), # <u>7</u> Exhibit Acknowledgement (Miami), # <u>8</u>

		Exhibit Notice (Miami), # <u>9</u> Exhibit Acknowledgement (Tampa), # <u>10</u> Exhibit Notice (Miami))(Stevenson, Benjamin) (Entered: 04/12/2017)
04/12/2017	<u>2</u>	Judge Assignment to Judge Darrin P. Gayles (lrz1) (Entered: 04/13/2017)
04/13/2017	<u>3</u>	Clerks Notice pursuant to 28 USC 636(c). Parties are hereby notified that the U.S. Magistrate Judge Alicia M. Otazo-Reyes is available to handle any or all proceedings in this case. If agreed, parties should complete and file the attached form. It is not necessary to file a document indicating lack of consent. (lrz1) (Entered: 04/13/2017)
04/13/2017	<u>4</u>	Clerks Notice to Filer re: Electronic Case. No Civil Cover Sheet. Filer is instructed to file a Notice (Other) with the Civil Cover Sheet attached within 24 hours of the notice. (lrz1) (Entered: 04/13/2017)
04/13/2017	<u>5</u>	NOTICE by American Civil Liberties Union of Florida re 4 Clerks Notice to Filer re: Electronic Case – <i>Civil Coversheet</i> (Stevenson, Benjamin) (Entered: 04/13/2017)
05/08/2017	<u>6</u>	NOTICE of Attorney Appearance by Chetan A. Patil on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security. Attorney Chetan A. Patil added to party U.S. Customs and Border Protection(pty:dft), Attorney Chetan A. Patil added to party U.S. Department of Homeland Security(pty:dft). (Patil, Chetan) (Entered: 05/08/2017)
05/08/2017	<u>7</u>	NOTICE of Attorney Appearance by Matthew J. Berns on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security. Attorney Matthew J. Berns added to party U.S. Customs and Border Protection(pty:dft), Attorney Matthew J. Berns added to party U.S. Department of Homeland Security(pty:dft). (Berns, Matthew) (Entered: 05/08/2017)
05/08/2017	<u>8</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security <i>of Motion filed with the JPML to Transfer Action Pursuant to 28 U.S.C. 1407</i> (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit Exhibit 1 – Transfer Motion, # <u>3</u> Exhibit 2 – Supporting Memorandum, # <u>4</u> Exhibit 3 – Schedule of Action) (Patil, Chetan) (Entered: 05/08/2017)
05/10/2017	<u>9</u>	NOTICE of Filing Proposed Summons(es) by American Civil Liberties Union of Florida re <u>1</u> Complaint,, filed by American Civil Liberties Union of Florida (Abudu, Nancy) (Entered: 05/10/2017)
05/11/2017	<u>10</u>	Summons Issued as to U.S. Customs and Border Protection, U.S. Department of Homeland Security(asl) (Entered: 05/11/2017)
05/12/2017	<u>11</u>	<i>Courtesy Copy of Motion to Transfer of Actions Pursuant to 28 U.S.C. 1407 for Coordinated or Consolidated Pretrial Proceedings sent before The United States Judicial Panel on Multidistrict Litigation by U.S. Department of Homeland Security and U.S. Customs and Border Protection</i> (Attachments: # <u>1</u> Memorandum of Law in Support, # <u>2</u> Schedule of Actions)(gp) (Entered: 05/12/2017)
05/15/2017	<u>12</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security re <u>6</u> Notice of Attorney Appearance, <i>Corrected Certificate of Service</i> (Attachments: # <u>1</u> Exhibit 1 – Corrected Certificate of Service) (Patil, Chetan) (Entered: 05/15/2017)
05/15/2017	<u>13</u>	NOTICE of Attorney Appearance by Amien Kacou on behalf of American Civil Liberties Union of Florida. Attorney Amien Kacou added to party American Civil Liberties Union of Florida(pty:pla). (Kacou, Amien) (Entered: 05/15/2017)
05/23/2017	<u>14</u>	SUMMONS (Affidavit) Returned Executed by American Civil Liberties Union of Florida. United States Attorney served on 5/19/2017, answer due 7/18/2017. (Kacou, Amien) Modified text on 5/24/2017 (jas). (Entered: 05/23/2017)
05/23/2017	<u>15</u>	SUMMONS (Affidavit) Returned Executed by American Civil Liberties Union of Florida. U.S. Attorney General served on 5/22/2017, answer due 7/21/2017. (Kacou, Amien) Modified text on 5/24/2017 (jas). (Entered: 05/23/2017)
05/25/2017	<u>16</u>	SUMMONS (Affidavit) Returned Executed by American Civil Liberties Union of Florida. U.S. Customs and Border Protection served on 5/25/2017, answer due 7/24/2017; U.S. Department of Homeland Security served on 5/25/2017, answer due 7/24/2017. (Kacou, Amien) (Entered: 05/25/2017)

05/26/2017	<u>17</u>	Unopposed MOTION for Extension of Time to File Response/Reply/Answer as to <u>1</u> Complaint,, by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (Attachments: # <u>1</u> Text of Proposed Order)(Patil, Chetan) (Entered: 05/26/2017)
05/26/2017	<u>18</u>	ACKNOWLEDGMENT OF SERVICE as to <u>15</u> Summons Returned Executed as to USA <i>Attorney General supplemental receipt</i> filed by American Civil Liberties Union of Florida. (Kacou, Amien) (Entered: 05/26/2017)
05/30/2017	19	ENDORSED ORDER granting <u>17</u> Defendants' Unopposed Motion for Enlargement of Time to File Response to Complaint. Defendants shall respond to the Complaint on or before August 3, 2017. Signed by Judge Darrin P. Gayles (hs01) (Entered: 05/30/2017)
06/06/2017	<u>20</u>	NOTICE by U.S. Customs and Border Protection, U.S. Department of Homeland Security <i>of Filing of JPML Reply Brief</i> (Attachments: # <u>1</u> Exhibit JPML Reply Brief) (Patil, Chetan) (Entered: 06/06/2017)
06/07/2017	<u>21</u>	NOTICE by American Civil Liberties Union of Florida <i>of Filing of JPML Memorandum in Opposition</i> (Attachments: # <u>1</u> Exhibit JPML Memorandum in Opposition) (Kacou, Amien) (Entered: 06/07/2017)
06/29/2017	22	ENDORSED ORDER STAYING CASE pending a transfer decision by the Judicial Panel on Multidistrict Litigation. This case is administratively closed, for statistical purposes only, without prejudice to the substantive rights of any of the parties. Any party may move to reopen this case at the appropriate time. Signed by Judge Darrin P. Gayles (hs01) NOTICE: If there are sealed documents in this case, they may be unsealed after 1 year or as directed by Court Order, unless they have been designated to be permanently sealed. See Local Rule 5.4 and Administrative Order 2014-69. (Entered: 06/29/2017)
08/02/2017	<u>23</u>	Unopposed MOTION to Withdraw as Attorney (<i>Stevenson</i>) by Benjamin Stevenson. by American Civil Liberties Union of Florida. Responses due by 8/16/2017 (Stevenson, Benjamin) (Entered: 08/02/2017)
08/02/2017	24	ENDORSED ORDER granting <u>23</u> Motion to Withdraw as Attorney. Attorney Benjamin James Stevenson terminated. Signed by Judge Darrin P. Gayles (hs01) (Entered: 08/02/2017)
08/02/2017	<u>25</u>	ORDER DENYING TRANSFER IN RE: MDL 2786 – American Civil Liberties Union Freedom of Information Act (FOIA) Requests Regarding Executive Order 13769. (Signed by Sarah S. Vance, Chair of the Panel). (gp) (Entered: 08/02/2017)
08/08/2017	<u>26</u>	Agreed MOTION to Reopen Case by American Civil Liberties Union of Florida. (Tannebaum, Brian) (Entered: 08/08/2017)
08/22/2017	27	ENDORSED ORDER granting <u>26</u> Plaintiff's Agreed Motion to Reinstate Administratively Closed Case. The stay of this case pending a transfer decision by the Judicial Panel on Multidistrict Litigation 22 is LIFTED. The Clerk of the Court shall REOPEN these proceedings. Defendants shall answer or otherwise respond to the Complaint by 9/6/17. Signed by Judge Darrin P. Gayles on 8/22/2017. (lh00) (Entered: 08/22/2017)
08/22/2017		Set Answer Due Deadline per 27 Order: U.S. Customs and Border Protection response due 9/6/2017; U.S. Department of Homeland Security response due 9/6/2017. (asl) (Entered: 08/23/2017)
08/30/2017	<u>28</u>	NOTICE of Attorney Appearance by Kari D'Ottavio on behalf of U.S. Customs and Border Protection, U.S. Department of Homeland Security. Attorney Kari D'Ottavio added to party U.S. Customs and Border Protection(pty:dft), Attorney Kari D'Ottavio added to party U.S. Department of Homeland Security(pty:dft). (D'Ottavio, Kari) (Entered: 08/30/2017)
09/06/2017	<u>29</u>	ANSWER to Complaint by U.S. Customs and Border Protection, U.S. Department of Homeland Security. (D'Ottavio, Kari) (Entered: 09/06/2017)
10/24/2017	<u>30</u>	ENDORSED ORDER REQUIRING JOINT SCHEDULING REPORT AND PROPOSED SCHEDULING ORDER. Pursuant to S.D. Fla. Local Rule 16.1, on or before 11/24/2017 , the parties shall: (1) prepare and file a Joint Scheduling Report,

		Certificates of Interested Parties, and Corporate Disclosure Statements; (2) prepare and file a Joint Proposed Scheduling Order, adhering to the format and guidance of the attached form; and (3) complete and file the attached magistrate election forms. Failure to comply with this Order shall be grounds for dismissal without prejudice and without further notice. Signed by Judge Darrin P. Gayles on 10/24/2017. (lh00) (Entered: 10/24/2017)
11/16/2017	<u>31</u>	Joint SCHEDULING REPORT – Rule 16.1 by American Civil Liberties Union of Florida (Attachments: # <u>1</u> Text of Proposed Order)(Tannebaum, Brian) (Entered: 11/16/2017)
11/16/2017	<u>32</u>	Certificate of Interested Parties/Corporate Disclosure Statement – NONE disclosed by American Civil Liberties Union of Florida (Tannebaum, Brian) (Entered: 11/16/2017)
11/17/2017	33	ENDORSED ORDER. Pursuant to the parties' <u>31</u> Joint Scheduling Report dated November 16, 2017, in which the parties agree that setting a civil trial date and pretrial schedule is premature at this time, and ultimately may not be necessary. Therefore, it is hereby ORDERED that the parties shall submit a Joint Status Report and Proposed Scheduling Order on or before December 15, 2017, to update the Court on the status of Defendants' progress towards completion of responsive, non-exempt records and any discussions between the parties regarding a potential narrowing of the issues in dispute. Signed by Judge Darrin P. Gayles on 11/17/2017. (lh00) (Entered: 11/17/2017)
11/17/2017	34	Clerks Notice to Filer re <u>32</u> Certificate of Interested Parties/Corporate Disclosure Statement. Parties Not Added ; ERROR – The Filer failed to add all parties. Filer is instructed to file a Notice of Entry of Parties and add the additional parties. (kpe) (Entered: 11/17/2017)
11/21/2017	<u>35</u>	Notice of Entry of Parties Listed (Tannebaum, Brian) (Entered: 11/21/2017)
12/15/2017	<u>36</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (Attachments: # <u>1</u> Text of Proposed Order)(D'Ottavio, Kari) (Entered: 12/15/2017)
12/15/2017	37	ENDORSED ORDER. THIS CAUSE came before the Court on the parties' <u>36</u> Joint Status Report. Based thereon, the parties are ORDERED to submit a joint status report on or before January 8, 2018, to update the Court on the status of Defendants' progress towards completion of responsive, non-exempt records and any discussions between the parties regarding a potential narrowing of the issues in dispute. Signed by Judge Darrin P. Gayles on 12/15/2017. (lh00) (Entered: 12/15/2017)
12/22/2017	<u>38</u>	Unopposed MOTION to Withdraw as Attorney by Matthew J. Berns & Chetan A. Patil. by U.S. Customs and Border Protection, U.S. Department of Homeland Security. Responses due by 1/5/2018 (Attachments: # <u>1</u> Text of Proposed Order)(Berns, Matthew) (Entered: 12/22/2017)
12/22/2017	39	ENDORSED ORDER granting <u>38</u> Unopposed Motion to Withdraw as Attorney. Attorneys Matthew J. Berns and Chetan A. Patil terminated. Signed by Judge Darrin P. Gayles on 12/22/2017. (lh00) (Entered: 12/22/2017)
01/08/2018	<u>40</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (Attachments: # <u>1</u> Text of Proposed Order)(D'Ottavio, Kari) (Entered: 01/08/2018)
01/09/2018	<u>41</u>	ORDER on <u>40</u> Joint Status Report. Signed by Judge Darrin P. Gayles on 1/9/2018. (lh00) NOTICE: If there are sealed documents in this case, they may be unsealed after 1 year or as directed by Court Order, unless they have been designated to be permanently sealed. See Local Rule 5.4 and Administrative Order 2014-69. (Entered: 01/09/2018)
03/07/2018	<u>42</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (Attachments: # <u>1</u> Text of Proposed Order)(D'Ottavio, Kari) (Entered: 03/07/2018)
03/09/2018	43	SCHEDULING ORDER: THIS CAUSE is before the Court on the parties' <u>42</u> Joint Status Report dated March 7, 2018. Based thereon, it is hereby ORDERED AND ADJUDGED that:

		<p>(1) By April 30, 2018, Defendants will process 400 pages of potentially responsive email messages and attachments from the files of custodians in the Miami Field Office and the Tampa Field Office, and produce to Plaintiff any responsive, non-exempt records.</p> <p>(2) By June 30, 2018, Defendants will process 800 pages of potentially responsive email messages and attachments from the files of custodians in the Miami Field Office and the Tampa Field Office, and produce to Plaintiff any responsive, non-exempt records.</p> <p>(3) By September 30, 2018, Defendants will process at least 95 percent of all potentially responsive email messages and attachments from the files of custodians in the Miami Field Office and the Tampa Field Office, and produce to Plaintiff any responsive, nonexempt records.</p> <p>(4) By December 31, 2018, Defendants will complete processing all potentially responsive email messages and attachments from the files of custodians in the Miami Field Office and the Tampa Field Office, and produce to Plaintiff any responsive, non-exempt records.</p> <p>(5) Every sixty (60) days, the parties will file a joint status report advising the Court of the agency's progress in processing Plaintiff's requests, with the first such report to be filed by May 7, 2018. Signed by Judge Darrin P. Gayles on 3/9/2018. (lh00)</p> <p><u>Pattern Jury Instruction Builder</u> – To access the latest, up to date changes to the 11th Circuit Pattern Jury Instructions go to https://pji.ca11.uscourts.gov or click here. (Entered: 03/09/2018)</p>
05/07/2018	<u>44</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (D'Ottavio, Kari) (Entered: 05/07/2018)
07/02/2018	<u>45</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (D'Ottavio, Kari) (Entered: 07/02/2018)
08/31/2018	<u>46</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (D'Ottavio, Kari) (Entered: 08/31/2018)
10/09/2018	<u>47</u>	NOTICE of Change of Address by Kari D'Ottavio (D'Ottavio, Kari) (Entered: 10/09/2018)
10/30/2018	<u>48</u>	STATUS REPORT <i>Joint</i> by U.S. Customs and Border Protection, U.S. Department of Homeland Security (D'Ottavio, Kari) (Entered: 10/30/2018)