

**U.S. District Court
District of Maine (Portland)
CIVIL DOCKET FOR CASE #: 2:17-cv-00132-GZS**

AMERICAN CIVIL LIBERTIES UNION OF MAINE et al v.
US CUSTOMS AND BORDER PROTECTION et al
Assigned to: JUDGE GEORGE Z. SINGAL
Referred to: MAGISTRATE JUDGE JOHN H. RICH III
Cause: 05:552 Freedom of Information Act

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

Plaintiff

**AMERICAN CIVIL LIBERTIES
UNION OF MAINE**

represented by **ZACHARY L. HEIDEN**
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Plaintiff

**AMERICAN CIVIL LIBERTIES
UNION OF NEW HAMPSHIRE**

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Plaintiff

**AMERICAN CIVIL LIBERTIES
UNION OF VERMONT**

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Plaintiff

**AMERICAN CIVIL LIBERTIES
UNION OF MASSACHUSETTS**

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Plaintiff

**AMERICAN CIVIL LIBERTIES
UNION OF CONNECTICUT**

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Plaintiff

**AMERICAN CIVIL LIBERTIES
UNION OF RHODE ISLAND**

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V.

Defendant

**US CUSTOMS AND BORDER
PROTECTION**

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Defendant

**US DEPARTMENT OF HOMELAND
SECURITY**

represented by **MATT BERNS**
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TERMINATED: 09/27/2017
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CHETAN A. PATIL
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TERMINATED: 09/27/2017
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Date Filed	#	Docket Text
04/12/2017	<u>1</u>	COMPLAINT against US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY PAYMENT OF FILING FEE DUE

		<p>WITHIN 48 HOURS. IF FILING FEE IS BEING PAID WITH A CREDIT CARD, COUNSEL ARE INSTRUCTED TO LOGIN TO CM/ECF AND DOCKET Case Opening Filing Fee Paid FOUND IN THE Complaints and Other Initiating Documents CATEGORY. CHECK PAYMENTS DUE WITHIN 48 HOURS. . filed by AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF VERMONT. Fee due by 4/14/2017. (Service of Process Deadline 7/11/2017)(bfa) (Additional attachment(s) added on 4/12/2017: # <u>1</u> Exhibit A Executive Orders, # <u>2</u> Exhibit B United States Postal Service tracking information) (bfa). (Entered: 04/12/2017)</p>
04/12/2017	<u>2</u>	CIVIL COVER SHEET. (bfa) (Entered: 04/12/2017)
04/12/2017		Filing Fee Paid via Credit Card (Filing fee \$ 400 receipt number 0100-1675943.), filed by AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF VERMONT.(HEIDEN, ZACHARY) (Entered: 04/12/2017)
04/14/2017	<u>3</u>	<p>Summons Issued as to US CUSTOMS AND BORDER PROTECTION and US DEPARTMENT OF HOMELAND SECURITY.</p> <p>Counsel shall print the embossed summons and effect service in the manner in accordance with Fed.R.Civ.P.4.</p> <p>Note-If you are using Version 6 of Adobe Acrobat, be sure the PRINT WHAT field is set to DOCUMENTS AND COMMENTS (Click File, then Print to check this setting).</p> <p>(Attachments: # <u>1</u> Summons- U.S. Department of Homeland Security)(jgd) (Entered: 04/14/2017)</p>
05/02/2017	<u>4</u>	NOTICE of Appearance by JENNIFER A. ARCHER on behalf of AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT (ARCHER, JENNIFER) (Entered: 05/02/2017)
05/02/2017	<u>5</u>	**FILED IN ERROR**SUMMONS Returned Executed by AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF VERMONT. All Defendants. (ARCHER, JENNIFER) Modified on 5/3/2017 to reflect that this filing was made in error and will be re-filed (lrc). (Entered: 05/02/2017)
05/03/2017	<u>6</u>	NOTICE of Docket Entry Modification regarding <u>5</u> Summons Returned Executed- this docket entry was modified to reflect that it was filed in error and will be re-filed. (lrc) (Entered: 05/03/2017)
05/08/2017	<u>7</u>	NOTICE of Appearance by MATT BERNS on behalf of All Defendants (BERNS, MATT) (Entered: 05/08/2017)
05/08/2017	<u>8</u>	NOTICE/CORRESPONDENCE Re: Motion filed with the JPML to Transfer Action Pursuant to 28 U.S.C. 1407 by All Defendants (Attachments: # <u>1</u> Index of Exhibits, # <u>2</u> Exhibit 1 - Transfer Motion, # <u>3</u> Exhibit 2 - Supporting Memorandum, # <u>4</u> Exhibit 3 - Schedule of Actions)(BERNS, MATT) (Entered: 05/08/2017)
05/09/2017	<u>9</u>	SUMMONS Returned Executed by all Plaintiffs. US CUSTOMS AND BORDER PROTECTION served on 4/25/2017 (ARCHER, JENNIFER) Modified on 5/9/2017 to

		clean up docket text (lrc). (Entered: 05/09/2017)
05/09/2017	<u>10</u>	SUMMONS Returned Executed by all Plaintiffs. US DEPARTMENT OF HOMELAND SECURITY served on 4/25/2017 (ARCHER, JENNIFER) Modified on 5/9/2017 to clean up docket text(lrc). (Entered: 05/09/2017)
05/09/2017		Set Answer Deadline for US CUSTOMS AND BORDER PROTECTION and US DEPARTMENT OF HOMELAND SECURITY– per Summons Returned Executed filed on 5/9/2017: Answers due by 6/26/2017. (lrc) (Entered: 05/09/2017)
05/10/2017	<u>11</u>	Unopposed MOTION to Extend Time to File Answer re <u>1</u> Complaint,, by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY Responses due by 5/31/2017. (BERNS, MATT) (Entered: 05/10/2017)
05/11/2017	<u>12</u>	ORDER granting <u>11</u> Motion for Extension of Time to Answer By JUDGE GEORGE Z. SINGAL. (lrc) (Entered: 05/11/2017)
05/11/2017		Reset Answer Deadline for US CUSTOMS AND BORDER PROTECTION and US DEPARTMENT OF HOMELAND SECURITY per Order No. 12 entered on 5/11/2017: Answer due by 7/9/2017. (lrc) (Entered: 05/11/2017)
05/11/2017	<u>13</u>	MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY Responses due by 6/1/2017. (BERNS, MATT) (Entered: 05/11/2017)
05/19/2017	<u>14</u>	NOTICE of Appearance by CHETAN A. PATIL on behalf of US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY (PATIL, CHETAN) (Entered: 05/19/2017)
05/31/2017	<u>15</u>	RESPONSE in Opposition re <u>13</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> filed by AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT. Reply due by 6/14/2017. (ARCHER, JENNIFER) (Entered: 05/31/2017)
05/31/2017	<u>16</u>	NOTICE/CORRESPONDENCE Re: Memorandum Filed with the United States Judicial Panel on Multidistrict Litigation in Opposition to Defendants' Motion for Transfer by AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT (Attachments: # <u>1</u> Exhibit A)(ARCHER, JENNIFER) (Entered: 05/31/2017)
06/06/2017	<u>17</u>	NOTICE/CORRESPONDENCE Re: Filing of JPML Reply Brief by All Defendants (Attachments: # <u>1</u> JPML Reply Brief)(BERNS, MATT) (Entered: 06/06/2017)
06/08/2017	<u>18</u>	NOTICE/CORRESPONDENCE Re: Supplemental Authority by AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT (Attachments: # <u>1</u> Exhibit A)(ARCHER, JENNIFER) (Entered: 06/08/2017)
06/14/2017	<u>19</u>	REPLY to Response to Motion re <u>13</u> MOTION to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> filed by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY. (PATIL, CHETAN) (Entered: 06/14/2017)
06/19/2017	<u>20</u>	ORDER granting <u>13</u> Motion to Stay. After consideration of the case–specific factors, see <i>Good v. Altria Grp., Inc.</i> , 624 F. Supp. 2d 132, 134 (D. Me. 2009), and for the reasons articulated by the Defendants, the Courts GRANTS Defendants Motion to Stay <i>Proceedings Pending Decision on Motion to Transfer</i> and ORDERS that this matter be STAYED for sixty (60) days, at which point counsel shall file a status report

		and the Court will evaluate whether any further stay is appropriate. SO ORDERED. By JUDGE GEORGE Z. SINGAL. (lrc) (Entered: 06/19/2017)
06/19/2017		Set Deadlines pursuant to the Order entered on 6/19/2017: Status Report due by 8/18/2017. (lrc) (Entered: 06/19/2017)
08/02/2017	<u>21</u>	MDL ORDER re: Denying Transfer (mjlt) (Entered: 08/02/2017)
08/03/2017	22	ORDER: In light of the Judicial Panel on Multidistrict Litigations Order Denying Transfer at ECF No. <u>21</u> ,the stay in this matter is lifted. Defendants shall answer the Complaint within 21 days of todays date. SO ORDERED. By JUDGE GEORGE Z. SINGAL. (ccs) (Entered: 08/03/2017)
08/03/2017		Set Answer Deadline for US CUSTOMS AND BORDER PROTECTION and US DEPARTMENT OF HOMELAND SECURITY: Per Order at ECF No. 22: Answer due by 8/24/2017. (ccs) (Entered: 08/03/2017)
08/24/2017	<u>23</u>	NOTICE of Appearance by MICHAEL L. DREZNER on behalf of All Defendants (DREZNER, MICHAEL) (Entered: 08/24/2017)
08/24/2017	<u>24</u>	ANSWER to <u>1</u> Complaint,, by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY.(DREZNER, MICHAEL) (Entered: 08/24/2017)
08/25/2017	<u>25</u>	**VACATED– SEE ORDER NO. 27**SCHEDULING ORDER: Discovery due by 1/11/2018. Written Notice of Intent to File Summary Judgment Motion and Request for Pre–Filing Conference due by 1/18/2018. Motions due by 2/1/2018. Ready for Trial on 4/2/2018. By MAGISTRATE JUDGE JOHN H. RICH III. (dfr) Modified on 9/15/2017 to reflect that this order has been vacated per order no. 27(lrc). (Entered: 08/25/2017)
09/13/2017	<u>26</u>	Joint MOTION to Amend Scheduling Order <i>and Joint Report of 26(f) Conference</i> by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY Responses due by 10/4/2017. (DREZNER, MICHAEL) (Entered: 09/13/2017)
09/15/2017	27	ORDER granting without objection <u>26</u> Joint Motion to Amend Scheduling Order. For the reasons set forth in the parties' joint motion, the court's scheduling order, ECF No. 25, is hereby VACATED. Without objection, the parties are directed to file a written joint status report by November 1, 2017, addressing the status of defendants' search for and production of records responsive to the FOIA request at issue herein, the status of any negotiation on the scope and timing of future productions, and the parties' proposed schedule for future proceedings herein. By MAGISTRATE JUDGE JOHN H. RICH III. (RICH III, JOHN) (Entered: 09/15/2017)
09/15/2017		Set Deadlines – per Order No. 27: Joint Status Report and proposed schedule for future proceedings due by 11/1/2017. (lrc) (Entered: 09/15/2017)
09/27/2017	<u>28</u>	MOTION by Attorney Matthew J. Berns and Chetan A. Patil to Withdraw as Attorney by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY Responses due by 10/18/2017. (DREZNER, MICHAEL) (Entered: 09/27/2017)
09/27/2017	29	ORDER granting <u>28</u> Motion to Withdraw as Attorney. Attorneys Berns and Patil's representation of the defendants is hereby terminated; the defendants continue to be represented by Attorneys Drezner and Sawyer. By MAGISTRATE JUDGE JOHN H. RICH III. (RICH III, JOHN) (Entered: 09/27/2017)
11/01/2017	<u>30</u>	STATUS REPORT (<i>JOINT</i>) by AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT. (Attachments: # <u>1</u> Exhibit Core Search Terms for Field Office Records in ACLU Requests)(HEIDEN, ZACHARY) (Entered: 11/01/2017)
11/14/2017	31	NOTICE of Hearing: Telephone Conference re Discovery set for 11/21/2017 10:00 AM with MAGISTRATE JUDGE JOHN H. RICH III. Counsel shall coordinate the

		call and contact chambers once both sides are on the phone. (nrg) (Entered: 11/14/2017)
11/15/2017	<u>32</u>	NOTICE of Appearance by EMMA EATON BOND on behalf of All Plaintiffs (BOND, EMMA) (Entered: 11/15/2017)
11/21/2017	33	Minute Entry for proceedings held before MAGISTRATE JUDGE JOHN H. RICH III: Discovery Hearing held; docket order to follow. (Court Reporter: FTR) (RICH III, JOHN) (Entered: 11/21/2017)
11/24/2017	34	ORDER re <u>30</u> Status Report, filed by AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF VERMONT, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE. On November 21, 2017, I held a telephonic discovery hearing with Attorneys Zachary Heiden, Jennifer Archer, and Emma Bond for the plaintiffs and Attorneys Michael Drezner and Sheila Sawyer for the defendants to discuss the parties' dispute over the schedule and pace of the defendants' production of documents responsive to the plaintiffs' FOIA request as described in their status report (ECF No. 30). Following argument, I ORDERED, without objection, that the parties file on the docket by December 8, 2017, using the CM-ECF Correspondence function, simultaneous letter-briefs, not to exceed 7 pages single-spaced, exclusive of any attachment(s), addressing (1) whether document production by the defendants should be specific to this case or permitted to proceed in a manner that coordinates the defendants' responses in the other related cases pending nationally, and (2) in either event, the appropriate pace at which the court should order the defendants to process responsive documents and serve them on the plaintiffs. Simultaneous responsive letter-briefs, not to exceed 4 pages single-spaced, exclusive of attachment(s), shall be filed by December 15, 2017. By MAGISTRATE JUDGE JOHN H. RICH III. (RICH III, JOHN) (Entered: 11/24/2017)
11/24/2017		Set Deadlines per Order No. 34 entered on 11/24/2017: Simultaneous briefs due by 12/8/2017; simultaneous responsive briefs due by 12/15/2017. (lrc) (Entered: 11/24/2017)
12/08/2017	<u>35</u>	NOTICE/CORRESPONDENCE Re: Order of November 24, 2017 by All Defendants (Attachments: # <u>1</u> Exhibit A- Declaration, # <u>2</u> Exhibit B- Court Order)(DREZNER, MICHAEL) (Entered: 12/08/2017)
12/08/2017	<u>36</u>	NOTICE/CORRESPONDENCE Re: November 24, 2017 Order by All Plaintiffs (Attachments: # <u>1</u> Exhibit Washington Scheduling Order, # <u>2</u> Exhibit Michigan Scheduling Order, # <u>3</u> Exhibit So. Cal. Scheduling Order, # <u>4</u> Exhibit Illinois Scheduling Order, # <u>5</u> Exhibit Government Proposal in Georgia)(BOND, EMMA) (Entered: 12/08/2017)
12/14/2017	<u>37</u>	MOTION to Amend , Consent MOTION to Extend Time (Responses due by 1/4/2018.) by US CUSTOMS AND BORDER PROTECTION, US DEPARTMENT OF HOMELAND SECURITY (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B)(DREZNER, MICHAEL) (Entered: 12/14/2017)
12/14/2017	38	ORDER granting without objection <u>37</u> Motion for extension of time. Simultaneous responsive letter-briefs, not to exceed 4 pages single-spaced, exclusive of attachment(s), shall be filed by December 22, 2017. By MAGISTRATE JUDGE JOHN H. RICH III. (RICH III, JOHN) (Entered: 12/14/2017)
12/15/2017		Reset Deadlines Per Order at ECF No. 38: simultaneous responsive briefs due by 12/22/2017. (ccs) Modified on 12/15/2017 to reference correct docket number of order (ccs). (Entered: 12/15/2017)
12/22/2017	<u>39</u>	NOTICE/CORRESPONDENCE Re: Reply to Government's Letter Brief by All Plaintiffs (Attachments: # <u>1</u> Exhibit C.D. Cal. Order, # <u>2</u> Exhibit Ga. Order)(BOND, EMMA) (Entered: 12/22/2017)
12/22/2017	<u>40</u>	NOTICE/CORRESPONDENCE Re: Reply to Plaintiffs' Letter Brief by All Defendants (Attachments: # <u>1</u> Exhibit A - Supplemental Declaration)(DREZNER, MICHAEL) (Entered: 12/22/2017)

01/22/2018	<u>41</u>	Joint MOTION to Amend Scheduling Order by AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT Responses due by 2/12/2018. (Attachments: # <u>1</u> Text of Proposed Order Proposed Scheduling Order)(BOND, EMMA) (Entered: 01/22/2018)
01/26/2018	<u>42</u>	ORDER granting <u>41</u> Motion to Amend Scheduling Order By MAGISTRATE JUDGE JOHN H. RICH III. (mjlt) (Entered: 01/26/2018)
01/26/2018		Set Deadlines In accordance with the Order entered on 1/26/18: Parties to file a status report on March 30, 2018; On 12/17/18, parties to file a joint status report and proposed case schedule to the Court, updating the Court as to the status of the case and including a proposed briefing schedule for motions. (mjlt) (Entered: 01/26/2018)
03/30/2018	<u>43</u>	STATUS REPORT <i>Joint</i> by AMERICAN CIVIL LIBERTIES UNION OF CONNECTICUT, AMERICAN CIVIL LIBERTIES UNION OF MAINE, AMERICAN CIVIL LIBERTIES UNION OF MASSACHUSETTS, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AMERICAN CIVIL LIBERTIES UNION OF RHODE ISLAND, AMERICAN CIVIL LIBERTIES UNION OF VERMONT. (BOND, EMMA) (Entered: 03/30/2018)
03/30/2018		Set Deadlines in accordance with Order No. 42 entered on 1/26/2018: Next Status Report due by 5/29/2018. (lrc) (Entered: 03/30/2018)