

Exhibit A

From: [Brinkman, Andrew \(CIV\)](#)
To: [Gellert, Nicholas \(Perkins Coie\)](#); [Sepe, Cristina \(Perkins Coie\)](#); [Perez, David A. \(Perkins Coie\)](#); "Jennie Pasquarella"
Cc: [Bowen, Brigham \(CIV\)](#); [Braga, Victoria M. \(CIV\)](#); [Busen, Jesse \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Moore, Brendan T. \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#)
Subject: Wagafe - Production Volume 039
Date: Friday, September 27, 2019 10:12:26 AM

Counsel,

Copies of production volume 039 were sent to your offices via FedEx yesterday. The tracking numbers are 7763 5804 7165 (Perkins Coie) and 7763 5100 8405 (ACLU). The password is

Best,
Drew

Drew Brinkman
Senior Counsel for National Security
United States Department of Justice
Office of Immigration Litigation – Appellate Section
(202) 305-7035

THIS EMAIL MAY CONTAIN ATTORNEY-CLIENT COMMUNICATION OR ATTORNEY WORK PRODUCT

Exhibit B

From: [Hyatt, Heath \(Perkins Coie\)](#)
To: [Brinkman, Andrew \(CIV\)](#); [Perez, David A. \(Perkins Coie\)](#); [Gellert, Nicholas \(Perkins Coie\)](#); [Sepe, Cristina \(Perkins Coie\)](#); "Jennie Pasquarella"
Cc: [Braga, Victoria M. \(CIV\)](#); [Busen, Jesse \(CIV\)](#); [Davis, Kathryn C \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Moore, Brendan T. \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#)
Subject: RE: Wagafe v. Trump - Potential Motion to Compel
Date: Wednesday, December 18, 2019 5:55:50 PM
Attachments: [2019-12-18 - Documents to Unredact.xlsx](#)
[2019-12-18 - Documents to Unredact.pdf](#)

Dear Counsel:

As we mentioned at our December 11 meet and confer, we request the government reproduce documents without redactions in the following three categories:

1. All documents certified as part of the Administrative Record;
2. Named Plaintiffs' lesser redacted A-Files, including related worksheets and memos; and
3. The 83 documents listed by Control ID and Bates No. in the attached PDF/spreadsheet.

In these documents, the government failed to properly assert the applicable privilege, the redacted material is not privileged, and/or Plaintiffs' need for the information outweighs any governmental interest. With respect to the named Plaintiffs' A-Files and related documents, the government did not produce them in the spirit of Judge Jones' Order (Dkt. 274). For these documents, it appears that the government is redacting information interpreted or generated by USCIS and not only third-agency information.

In a show of good faith and efficiency, Plaintiffs have culled from thousands of documents to a narrow set of documents.

If you do not agree to re-produce these documents unredacted, we ask that we meet and confer on December 30 to discuss this issue further.

We look forward to hearing from you soon.

Best,

Heath

Heath Hyatt | Perkins Coie LLP

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From: Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>
Sent: Tuesday, December 17, 2019 5:25 PM
To: Perez, David A. (SEA) <DPerez@perkinscoie.com>; Gellert, Nicholas (SEA) <NGellert@perkinscoie.com>; Sepe, Cristina (SEA) <CSepe@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLUSOCAL.ORG>; Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>
Cc: Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>; Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>; Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>
Subject: Wagafe v. Trump - Potential Motion to Compel

Counsel,

On December 11, you stated that you planned to file a motion to compel on approximately 50 documents. To date, we have not received an email identifying any such documents. If the Court grants the parties' stipulation to revise the case schedule, motions to compel will have to be filed by January 2. Please identify the documents as soon as possible so that we can review them to determine if any information can be unredacted in order to avoid motions practice. We will likely have to consult with numerous third-party agencies about what information can be unredacted, and we would like to start that process as soon as possible with the January 2 deadline approaching.

Thanks,
Drew

Drew Brinkman
Senior Counsel for National Security
United States Department of Justice
Office of Immigration Litigation – Appellate Section
(202) 305-7035

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Exhibit C

From: [Sepe, Cristina \(Perkins Coie\)](#)
To: [Braga, Victoria M. \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Busen, Jesse \(CIV\)](#); [Davis, Kathryn C \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Moore, Brendan T. \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#); [Brinkman, Andrew \(CIV\)](#); [Flentje, August \(CIV\)](#); [Carilli, Joseph F. \(CIV\)](#)
Cc: [Perez, David A. \(Perkins Coie\)](#); [Gellert, Nicholas \(Perkins Coie\)](#); "[Jennie Pasquarella](#)"; [Hyatt, Heath \(Perkins Coie\)](#)
Subject: RE: Wagafe v. Trump - Potential Motion to Compel
Date: Thursday, January 02, 2020 9:08:45 AM

Counsel:

As discussed at our December 31, 2019 meet and confer, we do not believe our Named Plaintiffs' A-files were reproduced in the spirit of Judge Jones' order regarding the "why" information Plaintiffs are entitled to. Specifically, there are three types of documents within/related to the A-Files we would like the government to re-review: (1) USCIS-generated memorandums/worksheets whose bodies are entirely redacted or contain large sets of redactions in the bodies. [REDACTED]; (2) entire pages that are redacted, making it impossible to know the nature of the document; (3) other worksheets/queries with large sets of redactions in the body of the document; and (4) other redactions that do not appear to comply with Judge Jones' order.

Here are bates numbers of representative (not exhaustive) examples for each of our Named Plaintiffs:

Abdiqafar Wagafe

- **USCIS memorandums/worksheets:** See, e.g., DEF-00422744; DEF-00422753; DEF-00422756-422757; DEF-00422758; DEF-00422761-422762; DEF-00422791-422792; DEF-00422831; DEF-00422832-422833; DEF-00422918-422922; DEF-00422925.
- **Entire pages that are redacted:** See, e.g., DEF-00422819-422824; DEF-00422827-422828; DEF-00422837.
- **Other worksheets/queries with large sets of redactions in the body of the document:** See, e.g., DEF-00422825; DEF-00422909.
- **Other A-File related documents:** See, e.g., DEF-00425594; DEF-00425683; DEF-00425689; DEF-00425797; DEF-00425806.

Mehdi Ostadhassan

- **USCIS memorandums/worksheets:** See, e.g., DEF-00422485; DEF-00422486; DEF-00422494; DEF-00422497-422504; DEF-00422518-422519; DEF-00422520; DEF-00422521; DEF-00422522; DEF-00422524-422525; DEF-00422547-422548; DEF-00422547-422548; DEF-00422591-422592; DEF-00422639-422640; DEF-00422641; DEF-00422642-422643; DEF-00422644; DEF-00422646-422648; DEF-00422649-422650; DEF-00422651-422652.
- **Entire pages that are redacted:** See, e.g., DEF-00422516-422517; DEF-00422534-422538; DEF-00422601.
- **Other worksheets/queries with large sets of redactions in the body of the document:** See, e.g., DEF-00422532-422533.

Hanin Bengezi

- **USCIS memorandums/worksheets:** See, e.g., DEF-00420152-420169; DEF-00420538-420539;

DEF-00420552-420553; DEF-00420562-420566; DEF-00420571-420572; DEF-00420574; DEF-00420582; DEF-00420592-420593; DEF-00420632-420634; DEF-00420704; DEF-00420720-420721; DEF-00420722-420724; DEF-00420728-420729; DEF-00420730.

- **Entire pages that are redacted:** See, e.g., DEF-00420562-420566; DEF-00420595-420599; DEF-00420601-42612; DEF-00420627; DEF-00420635-420659.
- **Other worksheets/queries with large sets of redactions in the body of the document:** See, e.g., DEF-00420600.

Mushtaq Jihad

- **USCIS memorandums/worksheets:** See, e.g., DEF-00420893-420894; DEF-00420907; DEF-00420949-420952; DEF-00420953-420954; DEF-00420958-420959; DEF-00420995; DEF-00420996; DEF-00420997; DEF-00420999; DEF-0042016-421018; DEF-00421020-421022; DEF-00421024; DEF-00421025-420126; DEF-00421054-421055; DEF-00421067-421068; DEF-00421116-421117; DEF-00421303-421321.
- **Entire pages that are redacted:** See, e.g., DEF-00421003-42012; DEF-00421028-421039; DEF-00421071-421106; DEF-00421112-421115.
- **Other worksheets/queries with large sets of redactions in the body of the document:** See, e.g., DEF-00420944-420948; DEF-00420985-420994; DEF-00421040-421053; DEF-00421107-421111; DEF-00421298-421299.

Sajeel Manzoor

- **USCIS memorandums/worksheets:** See, e.g., DEF-00421406; DEF-00421415-421416; DEF-00421422; DEF-00421443-421444; DEF-00421538-421540; DEF-00421567; DEF-00421632-421634; DEF-00421635-421650; DEF-00421661; DEF-00421846; DEF-00421851-421853; DEF-00421863-421864; DEF-00421895-421897; DEF-00421898-421900; DEF-00421987-421994; DEF-00422041-422042; DEF-00422043; DEF-00422044-422048; DEF-00422049-422053; DEF-00422054; DEF-00422055-422057; DEF-00422058; DEF-00422059-422061; DEF-00422062-422068; DEF-00422069-422072; DEF-00422073-422074; DEF-00422077-422081; DEF-00422098; DEF-00422108-422114; DEF-0042115-422118; DEF-00422119.
- **Entire pages that are redacted:** See, e.g., DEF-00421445-421450; DEF-00421454-421456; DEF-00421488-421493; DEF-00421525-421527; DEF-00421529-421534; DEF-00421541-421556; DEF-00421598-421600; DEF-00421619-421621; DEF-00421623-421628; DEF-00421623-421628; DEF-00421848; DEF-00421872-421874; DEF-00421887-421888; DEF-00421904-421906; DEF-00421938-421941; DEF-00421947-421970; DEF-00421987-421994; DEF-00422008-422010; DEF-00422034-422038; DEF-00422076; DEF-00422084-422089; DEF-00422100.
- **Other worksheets/queries with large sets of redactions in the body of the document:** See, e.g., DEF-00421463-421502; DEF-00421507-421514; DEF-00421519-421523; DEF-00421528; DEF-00421572-421595; DEF-00421613-421617; DEF-00421622; DEF-00421995-422007; DEF-00421504-421506.

Best,

Cristina

Cristina Sepe | Perkins Coie LLP

ASSOCIATE

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E. CSepe@perkinscoie.com

From: Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>

Sent: Tuesday, December 31, 2019 1:17 PM

To: Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>; Sepe, Cristina (SEA) <CSepe@perkinscoie.com>; Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>; Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Flentje, August (CIV) <August.Flentje@usdoj.gov>; Carilli, Joseph F. (CIV) <Joseph.F.Carilli2@usdoj.gov>

Cc: Perez, David A. (SEA) <DPerez@perkinscoie.com>; Gellert, Nicholas (SEA) <NGellert@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLUSOCAL.ORG>

Subject: RE: Wagafe v. Trump - Potential Motion to Compel

Hi again,

As an additional follow-up, please send us the Bates numbers of the documents in the named Plaintiffs' A-files that you would like us to review as soon as possible.

Thank you,

Victoria

From: Braga, Victoria M. (CIV)

Sent: Tuesday, December 31, 2019 4:15 PM

To: 'Hyatt, Heath (Perkins Coie)' <HHyatt@perkinscoie.com>; Sepe, Cristina (Perkins Coie) <CSepe@perkinscoie.com>; Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>; Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Moore, Brendan T. (CIV) <bremoores@CIV.USDOJ.GOV>; Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Flentje, August (CIV) <AFlentje@CIV.USDOJ.GOV>; Carilli, Joseph F. (CIV) <jcarilli@CIV.USDOJ.GOV>

Cc: Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLUSOCAL.ORG>

Subject: RE: Wagafe v. Trump - Potential Motion to Compel

Hi everyone,

Following up on today's meet and confer, Defendants will be clawing back the following five documents, identified by their Control ID number in the attached document, which you sent us on December 18:

DEF-00053000
DEF-0074376
DEF-00062878
DEF-00063447
DEF-00016572

Defendants identified the following three documents as subject to a prior, pending motion to compel:

DEF-00044548
DEF-00017542
DEF-00023299

Defendants identified no redactions in the following two documents:

DEF-00020430
DEF-00256003

Finally, Defendants were not able to locate this document, identified in a December 26 e-mail, when searching by Bates number:

DEF-00359846

Please confirm that, based on these considerations, we can remove these documents from the list of 84 documents you asked us to review. Thank you.

Sincerely,
Victoria

From: Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>

Sent: Monday, December 30, 2019 8:03 PM

To: Braga, Victoria M. (CIV) <ybraga@CIV.USDOJ.GOV>; Sepe, Cristina (Perkins Coie) <CSepe@perkinscoie.com>; Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>; Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Moore, Brendan T. (CIV) <bremoore@CIV.USDOJ.GOV>; Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Flentje, August (CIV) <AFlentje@CIV.USDOJ.GOV>; Carilli, Joseph F. (CIV) <jcarilli@CIV.USDOJ.GOV>

Cc: Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Gellert, Nicholas (Perkins Coie)

<NGellert@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@CLUSOCAL.ORG>

Subject: RE: Wagafe v. Trump - Potential Motion to Compel

Counsel:

Counsel for Plaintiffs are available for a meet and confer tomorrow, December 31, at 10am PST/1pm EST. We can use the following dial-in number: 1-888-857-7291 / Pass code: 206 359 8758.

We'd also like to raise a few case schedule-related issues for your consideration in advance of the meet and confer:

1. The deadline to file discovery-related motions is this Thursday, January 2. Given the holidays, the two depositions next week, and the documents still undergoing third-agency review, we propose moving back this deadline by two weeks. We propose that discovery-related motions are due by January 16 (and shall be noted no later than January 31).
2. The deadline to complete depositions (other than experts) is Friday, February 14. Because Judge Jones has not ruled on Plaintiffs' motion to compel (Dkt. 260), and because we may be filing others, we would like to modify this deadline for the 30(b)(6) deposition only (topics forthcoming) to account for the Court's order(s).

Please let us know if the government will stipulate to these modifications to the case schedule.

Best,

Heath

Heath Hyatt | Perkins Coie LLP

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E. HHyatt@perkinscoie.com

From: Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>

Sent: Monday, December 30, 2019 1:53 PM

To: Sepe, Cristina (SEA) <CSepe@perkinscoie.com>; Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>; Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Flentje, August (CIV)

<August.Flentje@usdoj.gov>; Carilli, Joseph F. (CIV) <Joseph.F.Carilli2@usdoj.gov>

Cc: Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>; Perez, David A. (SEA)

<DPerez@perkinscoie.com>; Gellert, Nicholas (SEA) <NGellert@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLUSOCAL.ORG>

Subject: RE: Wagate v. Trump - Potential Motion to Compel

Counsel,

Defendants request to meet and confer with you tomorrow, December 31, regarding the documents you have identified as potentially subject to a motion to compel. Defendants have identified some documents that can be produced with fewer redactions prior to the January 2 motion to compel filing deadline. Others are still undergoing review by third party agencies. Given the tight time constraints, the third party agencies likely will not be able to complete their review before January 2.

Defendants propose 9 am PST or 10 am PST for tomorrow's meet and confer. Please let us know if you are available at either of those times.

Thank you,
Victoria

From: Sepe, Cristina (Perkins Coie) <CSepe@perkinscoie.com>

Sent: Tuesday, December 24, 2019 6:31 PM

To: Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Braga, Victoria M. (CIV)

<vbraga@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV)

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Cc: Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>; Perez, David A. (Perkins Coie)

<DPerez@perkinscoie.com>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; 'Jennie

Pasquarella' <JPasquarella@ACLUSOCAL.ORG>

Subject: RE: Wagate v. Trump - Potential Motion to Compel

Counsel:

A few points: First, our designation is not late. We're well within the deadline. Second, none of this is a problem of Plaintiffs' making. On the contrary, the burden to justify any redactions is on the government. And we've identified many that are plainly unjustifiable. That the government improperly redacted so many documents is a problem of *Defendants'* own making. Third, it should not be that burdensome for you to review these challenges redactions because presumably the government already reviewed these redactions before asserting them. Fourth, you are welcome to "complain vociferously" to the court, but that is not an argument on the merits, and it certainly is not a valid criticism of our willingness to

meet and confer. We sent counsel a list of documents; if counsel do not agree to unredact the identified documents, the parties will have to confer about it. But if the government needs more time, the government can ask for more time. We can always extend the deadline by which to file a motion to compel by another week or so to give the government more time to review these valid challenges.

Otherwise, the schedule contemplates a motion by early January, so we need to know your position before then. The burden remains on the government to justify these redactions. As requested in our previous email, will counsel be available for a meet and confer on December 30 if they do not agree to unredact these documents?

Finally, we inadvertently omitted one document from our prior list. Please also add the document beginning at DEF-00359846 to our prior request for your consideration.

Thanks very much,

Cristina

Cristina Sepe | Perkins Coie LLP

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From: Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>

Sent: Thursday, December 19, 2019 2:08 PM

To: Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>; Perez, David A. (SEA) <DPerez@perkinscoie.com>; Gellert, Nicholas (SEA) <NGellert@perkinscoie.com>; Sepe, Cristina (SEA) <CSepe@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLU.SOCAL.ORG>

Cc: Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>; Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Flentje, August (CIV) <August.Flentje@usdoj.gov>; Carilli, Joseph F. (CIV) <Joseph.F.Carilli2@usdoj.gov>

Subject: RE: Wagafe v. Trump - Potential Motion to Compel

Counsel:

This responds to Heath Hyatt's message of December 18th. Mr Hyatt's e-mail requests that the Government "reproduce . . . without redactions" the following three categories of documents: (1) all documents certified as part of the Administrative Record; (2) named Plaintiffs' lesser redacted A-Files, including related worksheets and memos; and (3) 83 identified documents. To say that this request caught our team by surprise is an understatement.

Plaintiffs' late designation of entirely new "categories" of documents for removal of redactions is unacceptable. Among those categories are "all documents" in the certified administrative record

(CAR). Plaintiffs have had the CAR for more than a year and the revised CAR for more than two months and never once suggested that they should not be redacted. Your request is made without notice, and without having even raised these greatly-expanded categories of documents during our last meet and confer on December 11th. Instead, you first alerted us during that meet and confer – which Defendants requested to address unrelated matters – to your plans for a motion to compel “in the range of 50 documents.” You also agreed to send us a list of such documents promptly. We did not receive it until yesterday evening, December 18th. Even as our repeated requests that you identify the documents went unanswered, Plaintiffs negotiated with us to seek Court approval to move the December 20th discovery motions deadline, a necessity precisely because the Christmas holiday week greatly disrupted the ability of government counsel and agency personnel to review 50 documents for purposes of narrowing the subject of any potential litigation. Recognizing that many of our attorneys and client personnel would be unavailable during the holiday season, the parties then agreed to this stipulation and we proceeded to task attorneys on our team to work with agency personnel during the narrow window of opportunity to review what we believed would be approximately 50 documents, as represented by Plaintiffs. If there were ever a time to apprise the Government that Plaintiffs had greatly increased the amount of material needing review and discussion, it was prior to our filing the “joint” stipulation.

Defendants repeatedly requested the Plaintiffs’ list of “50” documents in email communications on December 12th, 13th, and 17th, and finally again, last night on December 18th. Thus, we were surprised and dismayed to receive Plaintiffs’ list five days late and unrecognizable from what we were told to expect during the meet and confer. The CAR, by itself, is over 2000 pages. The 5 A-files encompass another 3000+ pages, collectively putting another 5000 pages in play that were not remotely mentioned at our meet and confer. Finally, even the one document category of which we were apprised, a category of “83” documents, is hardly “in the range of 50.”

We do not agree that Plaintiffs have complied with the meet and confer requirements by placing these unreasonable expectations on our team and agency personnel during Christmas week because of Plaintiffs’ poor planning.

In light of the above, our response is as follows:

Defendants will attempt to review as many of the 83 identified documents before January 2nd as we can, but we cannot and will not commit to a review of the CAR or the 5 A-files to address and resolve your hundreds of redaction challenges by that time. Should Plaintiffs file a motion to compel as to any documents that we have been asked to review, but have been unable to review because of the timing and scope of Plaintiffs’ unreasonable request, we will complain vociferously to the Court as to your failure to meet and confer in good faith before filing the motion.

Because this is a problem of Plaintiffs’ own making, we look to Plaintiffs to propose a reasonable solution that is faithful to the requirement that the parties meet and confer in good faith before filing a motion to compel and that does not place unreasonable and unduly burdensome expectations on Defendants.

Ethan

Ethan B. Kanter

Chief, National Security Unit

Civil Division, Office of Immigration Litigation-Appellate

United States Department of Justice

Post Office Box 868 | Ben Franklin Station | Washington, D. C. 20044

☎ 202-616-9123 | 🖨 202-307-8698 | ✉ ethan.kanter@usdoj.gov

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From: Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>

Sent: Wednesday, December 18, 2019 5:54 PM

To: Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Sepe, Cristina (Perkins Coie) <CSepe@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLU.SOCAL.ORG>

Cc: Braga, Victoria M. (CIV) <ybraga@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>; Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Moore, Brendan T. (CIV) <bremore@CIV.USDOJ.GOV>; Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>

Subject: RE: Wagafe v. Trump - Potential Motion to Compel

Dear Counsel:

As we mentioned at our December 11 meet and confer, we request the government reproduce documents without redactions in the following three categories:

1. All documents certified as part of the Administrative Record;
2. Named Plaintiffs' lesser redacted A-Files, including related worksheets and memos; and
3. The 83 documents listed by Control ID and Bates No. in the attached PDF/spreadsheet.

In these documents, the government failed to properly assert the applicable privilege, the redacted material is not privileged, and/or Plaintiffs' need for the information outweighs any governmental interest. With respect to the named Plaintiffs' A-Files and related documents, the government did not produce them in the spirit of Judge Jones' Order (Dkt. 274). For these documents, it appears that the government is redacting information interpreted or generated by USCIS and not only third-agency information.

In a show of good faith and efficiency, Plaintiffs have culled from thousands of documents to a narrow set of documents.

If you do not agree to re-produce these documents unredacted, we ask that we meet and confer on December 30 to discuss this issue further.

We look forward to hearing from you soon.

Best,

Heath

Heath Hyatt | Perkins Coie LLP

ASSOCIATE

Seattle, WA

D. +1.206.359.3843

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E. HHyatt@perkinscoie.com

From: Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>

Sent: Tuesday, December 17, 2019 5:25 PM

To: Perez, David A. (SEA) <DPerez@perkinscoie.com>; Gellert, Nicholas (SEA) <NGellert@perkinscoie.com>; Sepe, Cristina (SEA) <CSepe@perkinscoie.com>; 'Jennie Pasquarella' <JPasquarella@ACLUSOCAL.ORG>; Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>

Cc: Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>; Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>; Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>

Subject: Wagafe v. Trump - Potential Motion to Compel

Counsel,

On December 11, you stated that you planned to file a motion to compel on approximately 50 documents. To date, we have not received an email identifying any such documents. If the Court grants the parties' stipulation to revise the case schedule, motions to compel will have to be filed by January 2. Please identify the documents as soon as possible so that we can review them to determine if any information can be unredacted in order to avoid motions practice. We will likely have to consult with numerous third-party agencies about what information can be unredacted, and we would like to start that process as soon as possible with the January 2 deadline approaching.

Thanks,
Drew

Drew Brinkman

Senior Counsel for National Security
United States Department of Justice
Office of Immigration Litigation – Appellate Section
(202) 305-7035

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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Exhibit D

From: [Braga, Victoria M. \(CIV\)](#)
To: [Sepe, Cristina \(Perkins Coie\)](#); [Hyatt, Heath \(Perkins Coie\)](#); [Gellert, Nicholas \(Perkins Coie\)](#); [Perez, David A. \(Perkins Coie\)](#); "[Jennie Pasquarella](#)"
Cc: [Kanter, Ethan \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#); [Davis, Kathryn C \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Brinkman, Andrew \(CIV\)](#); [Busen, Jesse \(CIV\)](#); [Moore, Brendan T. \(CIV\)](#)
Subject: A-File Documents
Date: Wednesday, January 08, 2020 1:30:01 PM

Good afternoon counsel,

After a review of the A-file documents that you identified by Bates number on January 2, we have determined, as we anticipated during the December 31 meet and confer, that the A-files are properly redacted.

The A-files have been thoroughly reviewed and produced on two occasions, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]. Defendants stand by the law enforcement redactions in the A-files, supported by accompanying privilege logs and declarations, as consistent with that order. Accordingly, we will not reproduce the A-files.

Sincerely,
Victoria

Exhibit E

From: [Carilli, Joseph F. \(CIV\)](#)
To: [Hennessey, Laura K. \(Perkins Coie\)](#); [Gellert, Nicholas \(Perkins Coie\)](#); [Jennie Pasquarella \(JPasquarella@ACLUSOCAL.ORG\)](#); [Perez, David A. \(Perkins Coie\)](#); [Sameer Ahmed \(SAhmed@ACLUSOCAL.ORG\)](#)
Cc: [Petty, Aaron \(CIV\)](#); [White, Edward S. \(CIV\)](#); [Hollis, Christopher \(CIV\)](#)
Subject: RE: Wagafe v. Trump, No. 17-00094 (W.D. Wash.) - Production Volume Defendant USCIS 006 Privilege Log
Date: Friday, March 16, 2018 4:57:25 PM
Attachments: [Privilege Log \(Prod Vol Def USCIS 006\)\(A-Files\).pdf](#)
[Privilege Log \(Prod Vol Def USCIS 006\).pdf](#)

Counsel,

Please see attached.

Please have a nice weekend.

Regards,
Joseph Carilli

From: Carilli, Joseph F. (CIV)
Sent: Wednesday, February 28, 2018 6:57 PM
To: Hennessey, Laura K. (Perkins Coie) <LHennessey@perkinscoie.com>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Jennie Pasquarella (JPasquarella@ACLUSOCAL.ORG) <JPasquarella@ACLUSOCAL.ORG>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Sameer Ahmed (SAhmed@ACLUSOCAL.ORG) <SAhmed@ACLUSOCAL.ORG>
Cc: Petty, Aaron (CIV) <apetty@CIV.USDOJ.GOV>; White, Edward S. (CIV) <edwhite@CIV.USDOJ.GOV>
Subject: Wagafe v. Trump, No. 17-00094 (W.D. Wash.) - Production Volume Defendant USCIS 006

Counsel,

Good afternoon.

A copy of Production Volume Defendant USCIS 006 has been sent to your offices via FedEx today, February 28, 2018.

The tracking numbers are 7716 4902 0376 (Perkins Coie) and 7716 4904 3403 (ACLU).

The password for Production Volume Defendant USCIS 006 is [REDACTED].

Regards,
Joseph Carilli

Joseph F. Carilli, Jr.
Trial Attorney
U.S. Department of Justice
Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868
Ben Franklin Station
Washington, DC 20044
(202) 616-4848
joseph.f.carilli2@usdoj.gov

Exhibit F

From: [Brinkman, Andrew \(CIV\)](#)
To: [Sepe, Cristina \(Perkins Coie\)](#); [Perez, David A. \(Perkins Coie\)](#); [Gellert, Nicholas \(Perkins Coie\)](#); ["JPasquarella@ACLUSOCAL.ORG"](#)
Cc: [Braga, Victoria M. \(CIV\)](#); [Brinkman, Andrew \(CIV\)](#); [Busen, Jesse \(CIV\)](#); [Davis, Kathryn C \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Moore, Brendan T. \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#)
Subject: Wagafe v. Trump - Discovery Items
Date: Friday, November 22, 2019 4:08:36 PM
Attachments: [Privilege Log - Prod Vol 038 \(Final\).xlsx](#)
[Privilege Log - Prod Vol 039 \(Final\).xlsx](#)
[2019-10-31 Emrich Declaration \(PV 39\).pdf](#)
[2019-10-25 Latta Declaration \(PV 39\).pdf](#)
[2019-11-22 Def. First Suppl. Obj. and Resp. Pl. RFP No. 27, 28, 34, 35.pdf](#)

Counsel,

We have a few discovery-related items to report. First, we have sent production volumes 42 and 43 to your offices via FedEx. They should arrive today or tomorrow. The password to volume 42 is [REDACTED]. The password to volume 43 is [REDACTED]. Second, we have attached Defendants' First Supplement to Their Objections and Responses to Plaintiffs' Requests for Production Number 27, 28, 34, and 35. Finally, we have attached the privilege logs and accompanying declarations for production volumes 38 and 39. For the documents in production volume 38, we are not providing additional declarations because those documents were reproduced; thus, they were covered by prior declarations. We will send you the remaining privilege logs and affidavits next week.

Best,
Drew

Drew Brinkman
Senior Counsel for National Security
United States Department of Justice
Office of Immigration Litigation – Appellate Section
(202) 305-7035