

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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NATIONAL DAY LABORER ORGANIZING  
NETWORK, CENTER FOR CONSTITUTIONAL  
RIGHTS, and IMMIGRATION JUSTICE  
CLINIC OF THE BENJAMIN N. CARDOZO  
SCHOOL OF LAW,

**ECF CASE**

10 CV 3488 (SAS)(KNF)

[Rel. 10 CV 2705]

*Plaintiffs,*

v.

UNITED STATES IMMIGRATION  
AND CUSTOMS ENFORCEMENT AGENCY,  
UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY,  
FEDERAL BUREAU OF INVESTIGATION,  
EXECUTIVE OFFICE FOR IMMIGRATION  
REVIEW, and OFFICE OF LEGAL COUNSEL

*Defendants.*

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**DECLARATION OF JAMES HORTON**  
**EXHIBITS A-I**

I, JAMES HORTON, declare pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am a law student intern in the Kathryn O. Greenberg Immigration Justice Clinic of the Benjamin N. Cardozo School of Law ("IJC"), one of the three co-Plaintiffs in the above-captioned matter.

2. I submit this declaration in Opposition to the Motion for Partial Summary Judgment on Exemptions Applied to the Opt-Out Records submitted by Defendants U.S. Immigration and Customs Enforcement ("ICE"), Department of Homeland Security ("DHS"),

Federal Bureau of Investigation (“FBI”), and Executive Office for Immigration Review (“EOIR”) (collectively “Defendants”).

3. Additionally, I submit this declaration in support of Plaintiffs’ Cross-Motion for Partial Summary Judgment on Exemptions Applied to the Opt-Out Records.

4. Attached as Exhibit A is a true and correct copy of a chart, Exemption 5 Priority Policy Documents, created by Plaintiffs’ counsel. This chart lists ten entries (and the corresponding Bates numbers) from Defendants’ January 28, 2011 revised *Vaughn* indexes (“Revised *Vaughns*”). The corresponding documents were produced with the Opt-Out Records on January 17, 2011 (“Opt-Out Production”). True and correct copies of the documents listed in this chart are annexed to Exhibit A as Documents 1-9. Defendant DHS fully redacted all 100 pages of the tenth document listed on this chart; therefore, this document is not attached. Plaintiffs will provide this document to the Court upon request.

5. Attached as Exhibit B is a true and correct copy of a chart, Exemption 5 Priority Legal Documents, created by Plaintiffs’ counsel. This chart lists twenty entries (and the corresponding Bates numbers) included in Defendants’ Revised *Vaughns*. True and correct copies of the first two documents referenced in this chart are annexed to Exhibit B as Documents 1-2.

6. Attached as Exhibit C is a true and correct copy of a chart, Exemption 5 Deliberative Process Challenges, created by Plaintiffs’ counsel and listing entries on Defendants’ Revised *Vaughns*.

7. Attached as Exhibit D is a true and correct copy of a chart, Exemption 5 Attorney Client Challenges, created by Plaintiffs’ counsel and listing entries on Defendants’ Revised *Vaughns*.

8. On January 17, 2011, Defendants provided Plaintiffs with four *Vaughn* indexes (hereinafter "Original *Vaughns*") along with Defendants' Opt-Out Production. Plaintiffs contacted Defendants regarding deficiencies in the Original *Vaughns* on January 18, 2011. In an effort to cure these deficiencies, Defendants ICE and FBI agreed to produce revised *Vaughn* indexes to Plaintiffs and the Court on January 28, 2011. (*See* Hr'g Tr. 5-6 (Jan. 20, 2011)).

9. Attached as Exhibit E is a true and correct copy of a chart, the ICE *Vaughn* Comparison, created by Plaintiffs' counsel and comparing Defendants' Original *Vaughns* and Revised *Vaughns*. On February 2, 2011, I personally reviewed and compared Defendants' Original *Vaughns* and Revised *Vaughns*. I then compiled twenty entries for which Defendant ICE altered the text in the "Description of Information Withheld" column. Based upon my review, Defendant ICE did not alter the text in the "Description of Information Withheld" column for any other entries. I have verified, to the best of my ability, the information contained in Exhibit E.

10. Based upon my review, Defendant FBI, made one alteration to its "Description of Information Withheld" column. This change was the addition of one entry merely explaining that non-disclosed records were "non-responsive."

11. Based upon my review, Defendant DHS made no alterations to its "Description of Information Withheld" column.

12. Based upon my review, Defendant EOIR made no alterations to its "Description of Information Withheld" column.

13. Attached as Exhibit F is a true and correct copy of a chart, Reasonably Segregable Challenges, created by Plaintiffs' counsel. This chart lists selected records that contain blanket redactions. Plaintiffs' counsel compiled these entries from Defendants' Revised *Vaughns*.

14. Attached as Exhibit G is a true and correct copy of a chart, Documents Missing from the *Vaughn*, created by Plaintiffs' counsel and listing documents with redactions that were not included in ICE's Revised *Vaughn*. Plaintiffs' counsel compiled the spreadsheet after comparing Defendant ICE's portion of the Opt-Out Production with ICE's Revised *Vaughn*.

15. Attached as Exhibit H is a true and correct copy of an email from Amy Loudermilk to Matthew Bromeland, Washington D.C. Metropolitan Police Department, dated March 24, 2010.

16. Attached as Exhibit I is a true and correct copy of an email from Matthew Bromeland, Washington D.C. Metropolitan Police Department to Amy Loudermilk, dated March 30, 2010.

Dated: New York, NY  
February 11, 2011



James Horton