

**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 SUNITA PATEL

I, SUNITA PATEL, 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 licensed attorney at the Center for Constitutional Rights, one of the co-Plaintiffs and co-counsel in the above-captioned matter.
2. I submit this declaration in support of Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment and in support of Plaintiffs' Cross-Motion for Partial Summary Judgment on Adequacy of Search for Defendants' Opt-Out and Rapid Production List Records, dated March 26, 2012.

3. Attached as Exhibit A is a true and correct copy of the Declaration of Daniel L. Regard, co-founder and Managing Director of Intelligent Discovery Solutions, Inc., dated March 26, 2012.

4. Attached as Exhibit B is a true and correct copy of a chart titled "Document Index" created by Plaintiffs' counsel and dated March 26, 2012. The documents identified in the Document Index at entries 1 through 59 are documents produced by Defendants in the above-captioned matter. True and correct copies of documents 1 through 37 are attached as Exhibit B, Documents 1 through 37. The documents identified in entries 38 through 77 in the Document Index are publicly available at the URLs listed on the Document Index. Plaintiffs can also provide hard copies of Documents 38 through 77 to the Court upon request.

5. Attached as Exhibit C is a true and correct copy of a Letter from K. Gallo, Assistant Counsel to the Inspector General, to B. Kessler, Clinical Teaching Fellow, Benjamin N. Cardozo Law School, Immigration Justice Clinic, Re: Freedom of Information Act Request No. 2010-062, dated April 29, 2010.

6. Attached as Exhibit D is a true and correct copy of the draft Declaration of David C. Palmatier, ICE FOIA 10-2674.16157, referred to ICE by OLC and subsequently produced to Plaintiffs by ICE.

7. Attached as Exhibit E is a true and correct copy of the Declaration of Anne Weisman, Chief Counsel at Citizens for Responsibility and Ethics, dated March 23, 2012.

8. Attached as Exhibit F is a true and correct copy of a Letter from S. Patel, Center for Constitutional Rights, to C. Connolly, Assistant United States Attorney, dated August 8, 2011.

9. Attached as Exhibit G is a true and correct copy of a Letter from C. Connolly, Assistant United States Attorney, to S. Patel, Center for Constitutional Rights, dated September 23, 2011.

10. I personally participated in the negotiation of the Rapid Production List (“RPL”) agreement reached by the parties on July 7, 2010. Based on my best recollection of those negotiations and a recent comprehensive review of RPL negotiation correspondence, during the negotiation of the RPL agreement, Defendants’ counsel never objected to the RPL on grounds that it was overbroad, nor did Defendants suggest a single revision to the substance of Plaintiffs’ proposed RPL provided to Defendants on June 25, 2010. Defendants suggested that the parties omit Item IV of the RPL from the RPL agreement because it related to ongoing negotiations about data and statistics. Plaintiffs had no objection to this suggestion and the letter reflecting Plaintiffs’ final RPL agreement explicitly omitted Item IV from the agreement. During the negotiation of the RPL agreement, Defendants did not inform Plaintiffs of the number of potentially responsive records to any of the categories listed on the RPL. Therefore, Plaintiffs were unaware of the volume of potentially responsive RPL documents until the Preliminary Injunction hearing on December 9, 2010, when Defendants informed Plaintiffs that they had completed production only of approximately thirty percent of the documents responsive to the RPL. *See* Dec. 9, 2010, Hr’g Tr. at 6.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: New York, New York
March 26, 2012



SUNITA PATEL