

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

----- X
NATIONAL DAY LABORER ORGANIZING
NETWORK, et al.,

Plaintiffs,

- v -

UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.,

Defendants.
----- X

Civil Action No. 10-CV-3488
(SAS)

**DECLARATION
OF RYAN LAW**

Ryan Law, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am the Deputy Director of the Freedom of Information Act ("FOIA") Office at U.S. Immigration and Customs Enforcement ("ICE") within the Department of Homeland Security ("DHS"). I have held this position since May 9, 2010. The FOIA office is located at 800 North Capitol Street, N.W., Suite 585, Washington DC 20536-5009.

2. My official duties and responsibilities include the general management, oversight, and supervision of the ICE FOIA Office. The ICE FOIA Office is responsible for receiving, processing, and responding to all Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Privacy Act, 5 U.S.C. § 552a, requests received at ICE. In connection with my official duties, I am familiar with ICE's procedures for responding to requests for information pursuant to provisions of FOIA and the Privacy Act.

3. I am familiar with ICE's processing of the FOIA request that plaintiffs in the above-captioned action—the National Day Laborer Organizing Network, Center for Constitutional Rights, and Immigration Justice Clinic of the Benjamin N. Cardozo School of Law—submitted on or about February 3, 2010. The ICE FOIA Office assigned FOIA case number 2010FOIA2674 to this request.

4. I make this second supplemental declaration in support of ICE's motion for a stay pending appeal of the Court's February 7, 2011 and February 14, 2011 Orders requiring the production of certain fields of metadata. This declaration will clarify a few statements made in two prior ICE declarations (none of which is material to ICE's ability to produce the metadata at issue) and provide additional information concerning the volume of FOIA requests tracked and processed by the ICE FOIA Office. The statements contained in this declaration are based upon my personal knowledge, my review of documents kept by ICE in the ordinary course of business, and information provided to me by other ICE employees in the course of my official duties.

Clarifications

5. Both the declaration of Catrina Pavlik-Keenan, dated February 21, 2011 (the "Pavlik-Keenan declaration"), and the supplemental declaration of Ryan Law, dated March 23, 2011 (the "Law declaration"), stated that ICE expended more than \$270,000.00 on upgrades, including the acquisition of a new \$32,000.00 server, during the period December 20, 2010 to January 17, 2011.

6. To clarify, the \$270,000.00, which includes \$32,000.00 for acquisition of a new server, has not yet been spent. Rather, this amount has been allocated by the agency for the necessary upgrades. ICE experienced a hardware failure necessitating the replacement of its server from Clearwell, but Clearwell loaned a new server to ICE for the duration of the January 17, 2011 production. ICE plans to purchase the new server from Clearwell with a portion of the allocated funds.

7. In the Pavlik-Keenan declaration, ICE stated that it had been advised by Clearwell that ICE's software, as it currently exists, cannot produce a "load file" that is compatible with

Concordance 8X and/or Opticon 3X. ICE was not stating that Clearwell does not allow for the production of such a load file, just that ICE cannot do it with its current software. While Clearwell has identified a potential fix for this issue, ICE would need to check to see if the fix (which involves the installation of a “config” file) conflicts with any security protocols or raises any other agency-specific issues.

8. The Pavlik-Keenan and Law declarations include several statements to the effect that Clearwell is not suitable for use in FOIA. Those statements reflect the opinion of the ICE FOIA Office, are limited to the FOIA context, and are premised upon the ICE FOIA Office’s particular circumstances and needs. Indeed, as reflected in the attached past-performance letter, ICE concluded, in May 2010, that Clearwell performed satisfactorily in connection with the non-FOIA purpose for which it was originally procured, and exercised the option to extend the term of the Clearwell contract through September 2011.

The ICE FOIA Office’s Request Tracking System and Volume of FOIA Requests

9. Upon receipt, ICE separates all new FOIA requests into three tracks based on whether the request is simple, complex, or has been granted expedited processing. At the end of each fiscal year, ICE compiles statistics on the number of requests in each of those tracks, as well as the total number of requests received and closed within that fiscal year.

10. ICE also makes a significant effort each year to eliminate the agency’s backlog of FOIA requests. For example, ICE had a total of 304 backlogged FOIA requests at the end of FY2007 (September 30, 2007). ICE had a total of 68 backlogged FOIA requests at the end of FY2008 (September 30, 2008). ICE had a total of 78 backlogged FOIA requests at the end of FY2009 (September 30, 2009). ICE had a total of 36 backlogged FOIA requests at the end of FY2010 (September 30, 2010).

11. In addition to working towards eliminating the agency's backlog of pending FOIA requests, the ICE FOIA Office continues to receive and process an increasing number of new FOIA requests every year.

12. During FY2007 (October 1, 2006 to September 30, 2007), ICE received 2,845 FOIA requests and processed 12,166 FOIA requests. Of those processed requests, 4,857 were simple cases, 7,283 were complex cases, and 26 were expedited cases.

13. During FY2008 (October 1, 2007 to September 30, 2008), ICE received 4,224 FOIA requests and processed 4,461 FOIA requests. Of those processed requests, 2,463 were simple cases, 1,991 were complex cases, and 7 were expedited cases.

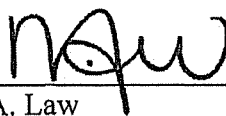
14. During FY2009 (October 1, 2008 to September 30, 2009), ICE received 6,746 FOIA requests and processed 6,731 FOIA requests. Of those processed requests, 5,529 were simple cases, 1,200 were complex cases, and 2 were expedited cases.

15. During FY2010, (October 1, 2009 to September 30, 2010), when the FOIA request that is the subject of the instant litigation was received, ICE received 8,523 FOIA requests and processed 8,570 FOIA requests. Of those processed requests, 6,930 were simple cases, 1,636 were complex cases, and 4 were expedited cases.

16. As of April 8, 2011, during FY2011 (October 1, 2010 to September 30, 2011), ICE has received 7,099 FOIA requests and has processed 6,126 FOIA requests.

V. JURAT CLAUSE

I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief. Signed this 11th day of April, 2011

A handwritten signature in black ink, appearing to read 'RAL', is written over a horizontal line.

Ryan A. Law
FOIA Deputy Director
Freedom of Information Act Office
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security