

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

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DETENTION WATCH NETWORK
and CENTER FOR CONSTITUTIONAL
RIGHTS,

Plaintiffs,

v.

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT AGENCY,
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendants.
-----X

ECF CASE
14-cv-583 (LGS)

**DECLARATION
OF GHITA SCHWARZ**

I, GHITA SCHWARZ, 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 an attorney at the Center for Constitutional Rights, counsel for Plaintiffs in this litigation. I am admitted to practice in this Court.
2. I submit this Declaration in Support of Plaintiffs' Opposition to Defendant DHS' Motion to Dismiss for Failure to Exhaust.
3. Attached hereto as Exhibit 1 is a true and correct copy of an email from Assistant U.S. Attorney Natalie Kuehler to me, dated March 4, 2014 at 8:19 p.m. The email advised me that Defendant DHS intended to file a motion to dismiss the next day "for lack of administrative exhaustion." The email further stated that the motion was based on DHS having "no record of any communication from you following its December 6, 2013 letter acknowledging receipt of your

FOIA request” and that Plaintiffs’ FOIA Request had been “administratively closed” by DHS on January 8, 2014.

4. Attached hereto as Exhibit 2 is a true and correct copy of an email from me to AUSA Kuehler, dated March 5, 2014 at 10:21 a.m., stating that I was not aware of any communication from DHS dated December 6, 2013 and asking for a copy.

5. Attached hereto as Exhibit 3 is a true and correct copy of an email and attachment from AUSA Kuehler to me, dated March 5, 2014 at 10:42 a.m. The document attached to the email was titled “DHS Letter.PDF” and dated December 6, 2013. Neither AUSA Kuehler’s email nor the attached December 6, 2013 Letter described how the Letter had been served or sent.

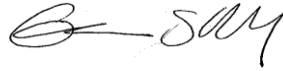
6. Attached hereto as Exhibit 4 is a true and correct copy of the Declaration of Ian Head, a Legal Worker at the Center for Constitutional Rights. Annexed to his declaration as Exhibit A is a true and correct copy of a December 6, 2013 email from Maura Busch to CCR Attorney Sunita Patel, containing the subject heading “NMI-Not Reasonably Described” and attaching a document titled “NMI-Not Reasonably Described.pdf.”

7. Attached hereto as Exhibit 5 is a true and correct copy of Declaration of Orlando Gudino, Information Technology Manager at the Center for Constitutional Rights.

8. Attached hereto as Exhibit 6 is a true and correct copy of a letter I sent via email to AUSA Kuehler on March 6, 2014, seeking to re-open the Request that DHS was said to have administratively closed on January 8, 2014.

DATED: March 28, 2014

New York, New York

A handwritten signature in black ink, appearing to read "G. Schwarz", written over a horizontal line.

By: Ghita Schwarz
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