

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN IMMIGRATION COUNCIL,)	
Plaintiff)	
)	
v.)	
)	Civil Action No. 11-1972 (JEB)
UNITED STATES DEPARTMENT OF)	
HOMELAND SECURITY, et al.,)	
)	
Defendants)	
_____)	

**DEFENDANTS' NOTICE OF WITHDRAWAL OF MOTION FOR SUMMARY
JUDGMENT AND CONSENT MOTION FOR RENEWED BRIEFING SCHEDULE**

Defendants, United States Department of Homeland Security and United States Customs and Border Protection ("CBP"), by and through undersigned counsel, hereby respectfully provide notice to the Court that they are withdrawing their Motion for Summary Judgment filed on January 26, 2012. See Docket Entry No. 9. As grounds for this motion, Defendants state as follows:

This action arises under the Freedom of Information Act ("FOIA") and involves Plaintiff's request for "disclosure of records concerning individuals' access to counsel during their interactions with United States Customs and Border Protection ('CBP')." Complaint at ¶ 1. More specifically, Plaintiff's March 14, 2011 FOIA request sought:

[A]ny and all records which have been prepared, received, transmitted, collected and/or maintained by the U.S. Department of Homeland Security and/or U.S. Customs and Border Protection (CBP), whether issued or maintained by CBP Headquarters offices, including any divisions, subdivisions or sections therein; CBP field operations offices, including any divisions, subdivisions or sections therein; CBP offices at ports of entry, including any divisions, subdivisions or sections therein; and/or any other CBP organizational structure; and which relate or refer in any way to any of the following:

- Attorneys' ability to be present during their clients' interactions with

CBP;

- What role attorneys may play during their clients' interactions with CBP;
- Attorney conduct during interactions with CBP on behalf of their clients;
- Attorney appearances at CBP offices or other facilities.

Id. at ¶ 11.

In response to Plaintiff's FOIA request, Defendants provided Plaintiff with responsive records, without redactions, and filed a Motion for Summary Judgment. On March 26, 2012, Plaintiff filed an opposition alleging, *inter alia*, that there were additional responsive records which Defendants did not produce. See Docket Entry No. 12. With Plaintiff's consent Defendants filed enlargements of time to investigate Plaintiff's claims and prepare an appropriate response to Plaintiff's opposition. See Docket Entry Nos. 15, 17. However, as of this date, Defendants have been unable to locate all of the documents identified by Plaintiff.

In light of the fact that Plaintiffs have provided these additional responsive records, Defendants believe that it is in the best interest of this litigation that they not only continue to search for these records, but also expand their search beyond the CBP offices originally believed to have responsive records - - the Office of Border Patrol, the Office of Field Operations, and the Office of Chief Counsel.¹ To that end, if the Court grants this motion, Defendants' Freedom of Information Act Appeals, Policy and Litigation Branch, Regulations and Rulings, Office of International Trade, will conduct a nationwide search of CBP offices for records responsive to Plaintiff's FOIA request. The search will involve over 300 Ports of Entry, approximately 130 Border Patrol Stations and 20 Border Patrol Sectors, CBP Field Operations Offices as well as the following additional offices at CBP headquarters: Office of Training and

¹To the extent that Defendants search for the records identified by Plaintiff provides meaningful leads for new searches, Defendants will conduct these searches as well.

Development, Office of Diversity and Civil Rights, Office of Policy and Planning, and Office of Executive Secretariat. Defendants will provide Plaintiff with a rolling production of responsive records and provide the Court with monthly status reports. After the conclusion of the production which may take between six and nine months, Defendants will consult with Plaintiff and the Court regarding a renewed briefing schedule.

Pursuant to Local Rule 7(m) and Federal Rule of Civil Procedure 26, counsel for Defendants have conferred with counsel for Plaintiff who consents to this motion for a renewed briefing schedule.

For the reasons cited above, Defendants respectfully request that the motion be granted. An Order granting the relief sought is attached hereto.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, on this 22nd day of May 2012, the foregoing, and the attached Order, were sent via the Court's Electronic Mail System to Plaintiff's counsel:

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN IMMIGRATION COUNCIL,

Plaintiff

v.

**UNITED STATES DEPARTMENT OF
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Defendants.

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Civil Action No. 11- 1972 (JEB)

ORDER

This matter is before the Court on Defendants' Consent Motion for Renewed Briefing Schedule. Upon consideration of this Motion and the entire record of this case, it is this _____ day of _____, 2012,

ORDERED that Defendants' motion is **GRANTED**; and it is

FURTHER ORDERED that Defendants shall have until and including June 22, 2012 to provide a status report to the Court.

UNITED STATES DISTRICT JUDGE

Copies to:

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