

1 ROBERT W. FERGUSON
2 *Attorney General*
3 RENE D. TOMISSER, WSBA #17509
4 *Senior Counsel*
5 JEFFREY T. SPRUNG, WSBA #23607
6 ZACHARY P. JONES, WSBA #44557
7 JOSHUA WEISSMAN, WSBA #42648
8 PAUL M. CRISALLI, WSBA #40681
9 NATHAN K. BAYS, WSBA #43025
10 BRYAN M.S. OVENS, WSBA #32901
11 *Assistant Attorneys General*
12 8127 W. Klamath Court, Suite A
13 Kennewick, WA 99336
14 (509) 734-7285

15 **UNITED STATES DISTRICT COURT
16 EASTERN DISTRICT OF WASHINGTON
17 AT SPOKANE**

18 STATE OF WASHINGTON, et al.,

19 NO. 4:19-cv-05210-RMP

20 Plaintiffs,

21 PARTIES' JOINT STATUS
22 REPORT

v.

23 UNITED STATES DEPARTMENT
24 OF HOMELAND SECURITY, a
25 federal agency, et al.

26 Defendants.

27
28 Pursuant to the Court's November 14, 2019 Notice, the parties submit this
29 status report regarding the schedule for this case. Counsel for Plaintiffs and
30 Defendants conferred telephonically on December 13, 2019 and discussed a
31 discovery timetable, a cross-dispositive motion briefing schedule, and a deadline
32

1 for Defendants to answer Plaintiffs' Amended Complaint. In summary, the
2 parties are not in agreement concerning Plaintiffs' entitlement to a privilege log
3 or discovery on their Equal Protection Clause claim. They have, however, agreed
4 to a prompt briefing schedule to allow the Court to resolve these disputes, which
5 they set out below. Further, also as explained below, the parties believe that the
6 foregoing disputes should be resolved before they are required to submit a
7 dispositive motion briefing schedule and deadline for Defendants' responsive
8 pleading, and they propose to submit a status report addressing these two issues
9 within one week of the Court's resolution of their discovery dispute.

10 **1. Administrative Record and Discovery**

11 Defendants provided the administrative record to Plaintiffs on
12 November 25, 2019. Plaintiffs previously had requested that Defendants produce
13 a privilege log in conjunction with the administrative record; Defendants,
14 however, dispute Plaintiffs' entitlement to a privilege log. Plaintiffs also notified
15 Defendants that they intended to take discovery on Count IV of their First
16 Amended Complaint (ECF #31), alleging a violation of equal protection of the
17 laws guaranteed by the Fifth Amendment Due Process Clause. Defendants
18 dispute as well Plaintiffs' entitlement to discovery on this claim. The parties
19 propose the following briefing schedule to present these disputes for resolution:

20
21
22

1
2 Plaintiffs' motion to compel December 19, 2019
3 privilege log and discovery on
4 their Equal Protection Clause
5 claim
6 Defendants' opposition January 14, 2020
7 Plaintiffs' reply January 28, 2020

8
9
10 In addition, because Plaintiffs are incorporating two motions in a single
11 filing, the parties submit that good cause exists to increase the page limits for all
12 of the briefs on this motion from 10 to 15 pages, and the parties therefore request
13 excess page limits under LCivR 7(f)(5) for all briefs. Each party agrees to the
14 corresponding extension(s) for the other party.

15 **2. Schedule for a Responsive Pleading and Cross-Dispositive
16 Motions**

17 The schedule for resolution of this case will be impacted by the outcome
18 of the foregoing motion. Plaintiffs believe that, if Defendants are required to
19 produce a privilege log, the privilege log may generate disputes about assertions
20 of privilege or lead Plaintiffs to identify with specificity additional topics on
21 which Plaintiffs believe discovery is needed.¹ Further, Defendants are planning
22 to move to dismiss Plaintiffs' claims, and a decision on whether there will be
discovery in this case could impact the schedule for dispositive motions and the

¹ Plaintiffs are reviewing the administrative record produced by Defendants, and they reserve the right to seek supplementation of the record in the future.

1 scope of such motions. Accordingly, the parties propose that they submit a status
2 report addressing the deadline for Defendants' responsive pleading and a
3 dispositive motion briefing schedule within one week of the Court's resolution
4 of their discovery dispute.

5 RESPECTFULLY SUBMITTED this 16th day of December, 2019.

6 JOSEPH H. HUNT
7 Assistant Attorney General
8 ALEXANDER K. HAAS
Branch Director

9 /s/ Joshua M. Kolsky
10 ERIC J. SOSKIN
11 Senior Trial Counsel
12 KERI L. BERMAN
13 KUNTAL V. CHOLERA
14 JOSHUA M. KOLSKY
15 DC Bar No. 993430
16 Trial Attorneys
17 United States Department of Justice
18 Civil Division, Federal Programs
19 Branch
20 1100 L Street NW
21 Washington, D.C. 20005
22 Tel: (202) 305-7664
Fax: (202) 616-8470
joshua.kolsky@usdoj.gov
Attorneys for Defendants

ROBERT W. FERGUSON
Attorney General of Washington

/s/ Jeffrey T. Sprung
RENE D. TOMISSE, WSBA #17509
Senior Counsel
JEFFREY T. SPRUNG, WSBA #23607
ZACHARY P. JONES, WSBA #44557
JOSHUA WEISSMAN, WSBA #42648
PAUL M. CRISALLI, WSBA #40681
NATHAN K. BAYS, WSBA #43025
BRYAN M.S. OVENS, WSBA #32901
Assistant Attorneys General
8127 W. Klamath Court, Suite A
Kennewick, WA 99336
(509) 734-7285
Rene.Tomisser@atg.wa.gov
Jeff.Sprung@atg.wa.gov
Zach.Jones@atg.wa.gov
Joshua.Weissman@atg.wa.gov
Paul.Crisalli@atg.wa.gov
Nathan.Bays@atg.wa.gov
Bryan.Ovens@atg.wa.gov
Attorneys for Plaintiff State of
Washington

MARK R. HERRING
Attorney General of Virginia

/s/ Michelle S. Kallen
MICHELLE S. KALLEN,

1 VSB #93286
2 Deputy Solicitor General
3 JESSICA MERRY SAMUELS,
4 VSB #89537
5 Assistant Solicitor General
6 RYAN SPREAGUE HARDY,
7 VSB #78558
8 ALICE ANNE LLOYD,
9 VSB #79105
10 MAMOONA H. SIDDIQUI,
11 VSB #46455
12 Assistant Attorneys General
13 Office of the Attorney General
14 202 North Ninth Street
15 Richmond, VA 23219
16 (804) 786-7240
17 MKallen@oag.state.va.us
18 RHardy@oag.state.va.us
19 ALloyd@oag.state.va.us
20 MSiddiqui@oag.state.va.us
21 SolicitorGeneral@oag.state.va.us
22 *Attorneys for Plaintiff
Commonwealth of Virginia*

13 PHIL WEISER
14 Attorney General of Colorado

15 /s/ Eric R. Olson
16 ERIC R. OLSON, #36414
17 Solicitor General
18 Office of the Attorney General
19 Colorado Department of Law
20 1300 Broadway, 10th Floor
21 Denver, CO 80203
22 (720) 508 6548
Eric.Olson@coag.gov
*Attorneys for Plaintiff the State of
Colorado*

1 KATHLEEN JENNINGS
2 Attorney General of Delaware
3 AARON R. GOLDSTEIN
4 State Solicitor
5 ILONA KIRSHON
6 Deputy State Solicitor

7 */s/ Monica A. Horton*
8 MONICA A. HORTON, #5190
9 Deputy Attorney General
10 820 North French Street
11 Wilmington, DE 19801
12 Monica.horton@delaware.gov
13 *Attorneys for Plaintiff the State of*
14 *Delaware*

15 KWAME RAOUL
16 Attorney General of Illinois

17 */s/ Liza Roberson-Young*
18 LIZA ROBERSON-YOUNG,
19 #6293643
20 Public Interest Counsel
21 Office of the Illinois Attorney
22 General
100 West Randolph St., 11th Fl.
Chicago, IL 60601
(312) 814-5028
ERobersonYoung@atg.state.il.us
Attorney for Plaintiff State of Illinois

CLARE E. CONNORS
Attorney General of Hawai‘i

19 */s/ Lili A. Young*
20 LILI A. YOUNG, #5886
21 Deputy Attorney General
22 Department of the Attorney General
425 Queen Street
Honolulu, HI 96813

1 (808) 587-3050;
2 Lili.A.Young@hawaii.gov
3 *Attorneys for Plaintiff State of*
4 *Hawai'i*
5 BRIAN E. FROSH
6 Attorney General of Maryland

7 */s/ Jeffrey P. Dunlap*
8 JEFFREY P. DUNLAP
9 #1812100004
10 Assistant Attorney General
11 200 St. Paul Place
12 Baltimore, MD 21202
13 T: (410) 576-7906
14 F: (410) 576-6955
15 JDunlap@oag.state.md.us
16 *Attorneys for Plaintiff State of*
17 *Maryland*

18 MAURA HEALEY
19 Attorney General of Commonwealth
20 of Massachusetts

21 */s/ Abigail B. Taylor*
22 ABIGAIL B. TAYLOR, #670648
23 Chief, Civil Rights Division
24 DAVID UREÑA, #703076
25 Special Assistant Attorney General
26 ANGELA BROOKS, #663255
27 Assistant Attorney General
28 Office of the Massachusetts Attorney
29 General
30 One Ashburton Place
31 Boston, MA 02108
32 (617) 963-2232
33 abigail.taylor@mass.gov
34 david.urena@mass.gov
35 angela.brooks@mass.gov
36 *Attorneys for Plaintiff*
37 *Commonwealth of Massachusetts*

1 DANA NESSEL
2 Attorney General of Michigan

3 /s/Toni L. Harris
4 FADWA A. HAMMOUD, #P74185
5 Solicitor General
6 TONI L. HARRIS, #P63111
7 *First Assistant Attorney General*
8 Michigan Department of Attorney
9 General
P. O. Box 30758
Lansing, MI 48909
(517) 335-7603 (main)
HarrisT19@michigan.gov
Hammoudf1@michigan.gov
Attorneys for the People of Michigan

10 KEITH ELLISON
11 Attorney General of Minnesota

12 /s/ R.J. Detrick
13 R.J. DETRICK, #0395336
14 *Assistant Attorney General*
15 Minnesota Attorney General's Office
16 Bremer Tower, Suite 100
17 445 Minnesota Street
18 St. Paul, MN 55101-2128
19 (651) 757-1489
20 (651) 297-7206
21 Rj.detrick@ag.state.mn.us
22 *Attorneys for Plaintiff State of
Minnesota*

18 AARON D. FORD
19 Attorney General of Nevada

20 /s/ Heidi Parry Stern
21 HEIDI PARRY STERN, #8873
22 Solicitor General
Office of the Nevada Attorney
General

1 555 E. Washington Ave., Ste. 3900
2 Las Vegas, NV 89101
3 HStern@ag.nv.gov
4 *Attorneys for Plaintiff State of*
5 *Nevada*

6 GURBIR S. GREWAL
7 Attorney General of New Jersey

8 /s/ Glenn J. Moramarco
9 GLENN J. MORAMARCO,
10 #030471987
11 Assistant Attorney General
12 Office of the Attorney General
13 Richard J. Hughes Justice Complex
14 25 Market St., 1st Fl., West Wing
15 Trenton, NJ 08625-0080
16 (609) 376-3232
17 Glenn.Moramarco@law.njoag.gov
18 *Attorneys for Plaintiff State of New*
19 *Jersey*

20 HECTOR BALDERAS
21 Attorney General of New Mexico

22 /s/ Tania Maestas
23 TANIA MAESTAS, #20345
24 Chief Deputy Attorney General
25 P. O. Drawer 1508
26 Santa Fe, NM 87504-1508
27 tmaestas@nmag.gov
28 *Attorneys for Plaintiff State of New*
29 *Mexico*

30 PETER F. NERONHA
31 Attorney General of Rhode Island

32 /s/ Lauren E. Hill
33 LAUREN E. HILL, #9830
34 Special Assistant Attorney General
35 Office of the Attorney General

1 150 South Main Street
2 Providence, RI 02903
3 (401) 274-4400 x 2038
4 lhill@riag.ri.gov
5 *Attorneys for Plaintiff State of Rhode*
6 *Island*

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 16th day of December, 2019, at Seattle, Washington.

/s/ Jeffrey T. Sprung
JEFFREY T. SPRUNG, WSBA #23607
Assistant Attorney General