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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO/OAKLAND DIVISION

Zachary NIGHTINGALE, *et al.*,

Plaintiffs,

v.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *et al.*,

Defendants.

No. 3:19-cv-03512-WHO

DEFENDANTS' TWENTIETH COMPLIANCE REPORT

Pursuant to this Court's December 17, 2020 Order and Judgment, ECF Nos. 89 & 90, Defendants respectfully submit the following Twentieth Compliance Report and accompanying declaration regarding the injunction issued in the above-captioned matter.

1. This is a certified class action brought under the Freedom of Information Act ("FOIA"). Plaintiffs and class members are noncitizens and attorneys who claim that the U.S. Department of Homeland Security ("DHS"), U.S. Citizenship and Immigration Services ("USCIS"), and U.S. Immigration and Customs Enforcement ("ICE") have engaged in an unlawful pattern or practice of failing to make timely determinations on FOIA requests for Alien Files ("A-Files").

The Court's Injunction

2. On December 17, 2020, following briefing and oral argument, this Court entered summary judgment in favor of Plaintiffs on their FOIA pattern or practice claims and issued a nationwide injunction against Defendants. *See* ECF Nos. 89 at 27 & 90 at 1-2.[1] The injunction established the following three requirements:

> (A) **Adhere to FOIA Timing Requirements:** Defendants are permanently enjoined from further failing to adhere to the statutory deadlines for adjudicating A-File FOIA requests, as set forth in 5 U.S.C.§§ 552(a)(6)(A) and (B);
>
> (B) **Eliminate the Backlogs:** Within sixty (60) days of this order, defendants shall make determinations on all A-File FOIA requests in USCIS's and ICE's backlogs; [and]
>
> (C) **Quarterly Compliance Reports:** Until further order, defendants shall provide this court and class counsel with quarterly reports containing information regarding the number and percentage of A-File FOIA requests that were filed and timely completed as well as the number and percentage of cases that remain pending beyond the twenty or thirty-day statutory periods, respectively 5 U.S.C. §§ 552(a)(6)(A) and (B). The first compliance report is due within ninety (90) days of this order.

ECF No. 89 at 27; ECF No. 90 at 1-2.

The Court made clear that Defendants are not required to achieve 100% compliance with the injunction, but instead must reach "substantial compliance within sixty (60) days" of the Order. ECF No. 89 at 24.

Defendants' Substantial Compliance in the Previous Reporting Period

3. In the previous (nineteenth) reporting period, USCIS reported a timely completion rate of approximately 91.98%, a substantial increase from the rate of approximately 59.39% reported in the eighteenth reporting period. *See* Fourth Declaration of M. David Arnold ¶ 12, ECF No. 188-

[1] Defendants filed a notice of appeal of this Court's Judgment to the U.S. Court of Appeals for the Ninth Circuit. ECF No. 94. Defendants have since voluntarily dismissed the appeal. ECF No. 114.

1 ("4th Arnold Decl."); Third Declaration of M. David Arnold ¶ 8, ECF No. 183-1 ("3d Arnold Decl."). USCIS also substantially reduced its backlog, from approximately 12,741 at the end of the eighteenth period, *see* 3d Arnold Decl. ¶ 9, to approximately 4,831 at the end of the nineteenth period, *see* 4th Arnold Decl. ¶ 13. As in prior reporting periods, none of those backlogged requests was from a requester in Track 3—i.e. a requester with a scheduled immigration proceeding. *See* 4th Arnold Decl. ¶ 10. And the average processing times for requests in each A-File category remained within the statutory time periods. *See id.* ¶ 11.

Defendants' Substantial Compliance in the Present Reporting Period

4. In the present reporting period, USCIS has continued to demonstrate its commitment to substantially complying with the Court's injunction. It reports a timely completion rate of approximately 99.6%. *See* Fifth Declaration of M. David Arnold ¶ 11 ("5th Arnold Decl."). From September 15, 2025 through December 14, 2025, USCIS received approximately 134,611 new A-File requests. *Id.* ¶ 8. There are approximately two (2) FOIA requests for A-Files in USCIS's backlog, which is a reduction of approximately 4,829 requests (nearly 100%) since the prior report. *See id.* ¶¶ 7, 12. The number of cases in USCIS's backlog from requesters in Track 3—i.e. those who show they have a scheduled immigration proceeding—remains at zero. *Id.* ¶ 9. ICE's A-File backlog also remains at zero.

5. Of the approximately 134,611 new A-File requests received in the current reporting period, approximately 122,396 were completed, and approximately 121,911 were timely completed. *Id.* ¶¶ 8, 11. As noted, *supra* ¶ 4, this reflects a timely completion rate of approximately 99.6% for the current reporting period. *Id.* ¶ 11. The average processing times for requests in each A-File category remain within the statutory time periods. *Id.* ¶ 10. Specifically, USCIS processed requests in an average of approximately 7.94 business days for Track 1 requests; approximately 18.78 business days for Track 2 requests; and approximately 4.66 business days for Track 3 requests. *Id.*

This demonstrates that USCIS is, on average, continuing to provide requestors with the greatest need—those in Track 3—responses remarkably quicker than the FOIA requires. *See id.*

6. As previously explained, the USCIS FOIA program has experienced severe staffing and other resource constraints this year. *See, e.g.*, 3d Arnold Decl. ¶¶ 10-12; 4th Arnold Decl. ¶¶ 6-7. In an effort to maximize its remaining workforce's productivity, USCIS reorganized its FOIA office to move supervisors and other support staff into FOIA-processing roles. *See, e.g.*, 4th Arnold Decl. ¶ 15. This reorganization initially resulted in slower FOIA processing as staff completed necessary training and adjustments, but it has since contributed to substantial improvements to the agency's timely completion rate for new requests, and significant reduction of its backlog. *See id.* USCIS has continued to reap these benefits in the present reporting period, as evidenced by the numbers reported herein. *See* 5th Arnold Decl. ¶ 14. The USCIS FOIA office has also advertised FOIA temporary promotion positions (for which one individual has already been hired); is advertising for one-year detail assignments; and it continues to benefit from its previously exercised option period in its existing FOIA contract and from use of overtime hours of existing FOIA staff. *Id.* ¶¶ 14-17.

8. Through these continued investments and efforts, USCIS anticipates that it will continue reporting a high timely completion rate and a low A-File backlog. *See id.* ¶ 18.

Dated: December 15, 2025

Respectfully submitted,

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