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14 *Attorneys for Defendants*

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 17 **IN THE UNITED STATES DISTRICT COURT**
 18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 19 **SAN JOSE DIVISION**

20 NATIONAL URBAN LEAGUE, *et al.*,

21 Plaintiff,

22 v.

23 WILBUR L. ROSS, JR., *et al.*,

24 Defendants.
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Case No. 5:20-cv-05799-LHK

**DEFENDANTS' RESPONSE TO
 PLAINTIFFS' STATEMENT RE:
 PRIVILEGE LOGS**

1 Defendants respectfully submit the following response to Plaintiffs' Statement Re:
2 Privilege Logs, ECF No. 389. The parties' Joint Statement, ECF No. 382, did include a provision
3 contemplating that Defendants would provide a privilege log to accompany their December 14,
4 2020 production. Inclusion of that language, however, was an oversight in light of the fact that no
5 privileges were asserted with regard to any documents in the December 14 production. Defendants
6 regret that oversight. Because no privileges were asserted over documents in the December 14
7 production—and therefore no documents were redacted or withheld from that production—
8 Defendants submit that the inadvertent reference to a privilege log in the Joint Statement did not
9 prejudice either Plaintiffs or the Court. There were no privilege disputes that would have needed
10 to be resolved with respect to the December 14 production.

11 As of this filing, Defendants are not in position to produce a privilege log on December 17
12 with a significant number of documents. Defendants continue to review potentially privileged
13 documents for inclusion on a privilege log and will provide that log on Monday. While Plaintiffs,
14 citing the Declaration of Brian DiGiacomo, ECF No. 376-2, state that they “expect to receive a
15 single privilege log from Defendants covering over 25,000 withheld documents,” ECF No. 389 at
16 3, that is a misreading of Mr. DiGiacomo's declaration. In that declaration, Mr. DiGiacomo noted
17 only that about 25,000 documents “are *likely* to contain material protected by the attorney-client,
18 attorney-work-product, and Executive privileges.” ECF No. 376-2 at ¶ 7. Those documents are
19 currently being reviewed as expeditiously as possible. Defendants expect that some could be
20 produced, some logged as privileged, some excluded as nonresponsive, and others may be
21 excluded as communications with litigation counsel. Defendants are, of course, prepared to meet
22 and confer with Plaintiffs about this issue.

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24 DATED: December 17, 2020

Respectfully submitted,

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Acting Assistant Attorney General

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