

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NATIONAL URBAN LEAGUE, and
others,

Plaintiffs,

v.

WILBUR L. ROSS, JR., and others,

Defendants.

Case No. 20-cv-05799 LHK

**ORDER ON FURTHER
PROCEDURES FOR IN CAMERA
REVIEW OF DOCUMENTS ON
PRIVILEGE LOGS**

Re: ECF 382

This order responds to the “Joint Statement Re: Privilege Log and Privilege Disputes” filed December 14 at ECF 382. The Joint Statement was filed as requested by District Court Judge Lucy H. Koh in her December 13 Amended Order Denying Reconsideration and Clarifying Order to Compel, ECF 380.

First, to the extent the parties’ Joint Statement seeks to modify the deadlines set by Judge Koh in ECF 372 (Order to Compel) and ECF 380 (Clarifying Order), the request is denied. For example, Judge Koh in ECF 380 at 9:16-20 ordered Defendants to produce “each day” from December 14 to December 21, on a rolling basis, documents in two categories. Furthermore, she set a daily benchmark for this review. The Joint Statement, on the other hand, seems to disregard the daily production ordered by Judge Koh. We will

1 be following the schedule and expectations set by Judge Koh.

2 Second, as to the privilege review schedule, we order as follows. All times
3 referenced are Pacific Standard Time.

4 For the December 14 privilege log, Plaintiffs must provide a list of challenged
5 entries by December 16 at 3:00 p.m.; counsel must confer regarding any privilege disputes
6 by December 16 at 7:00 p.m.; and the parties must file simultaneous briefs and any
7 supporting declarations on the privilege issues by December 17 at noon. Plaintiffs must
8 designate their highest-priority objections in their brief and provide a proposed order that
9 tracks the challenged privilege entries. Defendants must lodge the privileged documents
10 with the undersigned Magistrate Judges and file the log (as revised to reflect any changes
11 from the meet and confer process) by December 17 at noon.

12 By December 21 at 7:00 p.m., Defendants must produce a second privilege log
13 including any additional documents that have been withheld as privileged up to the time of
14 the final production. For the December 21 log, Plaintiffs must provide a list of challenged
15 entries by December 22 at 3:00 p.m.; counsel must confer regarding any privilege disputes
16 by December 22 at 7:00 p.m.; and the parties must file simultaneous briefs and any
17 supporting declarations on the privilege issues by December 23 at noon. Plaintiffs must
18 designate their highest-priority objections in their brief and provide a proposed order that
19 tracks the challenged privilege entries. Defendants must lodge the privileged documents
20 with the undersigned Magistrate Judges and file the log (as revised to reflect any changes
21 from the meet and confer process) by December 23 at noon.

22 As to the mechanics of the in-camera process, the parties should generally follow
23 the procedures used in October during our prior privilege reviews. *See* ECF 154-2 (prior
24 privilege log); 132, 140, 163 (earlier orders on privilege review process). We plan to rule
25 on the challenged privileges without need for a hearing.

26 Finally, we address the parties' proposals as to what will happen after our privilege
27 orders. ECF 382 at 4-5. While we are mindful of the arduous process of document

28

1 review, we do not agree in advance to the limits proposed by the parties. If any documents
2 are ordered produced, our orders will set a deadline for production. The parties should be
3 prepared to move with alacrity in response to our orders. If any party wishes to object, it
4 must do so before the deadline we set for production. If the parties are concerned about
5 privilege waiver, they should file a proposed claw back protective order under Fed. R.
6 Evid. 502 and Fed. R. Civ. P. 26(b)(5)(B) by December 17 at noon.

7 **IT IS SO ORDERED.**

8
9 Dated: December 15, 2020



NATHANAEL M. COUSINS
United States Magistrate Judge

10
11
12 /S/

SUSAN VAN KEULEN
United States Magistrate Judge

13
14
15 /S/

THOMAS S. HIXSON
United States Magistrate Judge

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28