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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 Irvin Muchnick, ) Case No. 15-cv-03060-CRB  
17 )  
18 Plaintiff, ) JOINT RESPONSE RE TENTATIVE ORDER  
19 )  
20 v. )  
21 Department of Homeland Security, )  
22 Defendant. )

23 For the obligatory "Joint Response" within thirty days as decreed in the Court's Tentative Order  
24 dated November 2, 2016, the parties submit this document with separate statements as follows:

25 Defendant's Statement:

26 The parties have conferred about the Court's Tentative Order. The parties have not been able to  
27 reach a settlement. For purposes of the record, Defendant objects to the Tentative Order for the reasons

28 Joint Response re Tentative Order  
Case No. 15-cv-03060-CRB

1 stated in Defendant's motion for summary judgment papers. Plaintiff requests that the Court issue a  
2 final order and judgment based on the Tentative Order at this time. Defendant will decide how to  
3 proceed after reviewing the final order. The parties thank the Court for reviewing the documents *in*  
4 *camera*, affording the parties the opportunity to argue their respective cases at the recent motion for  
5 summary judgment hearing, and for providing the parties with guidance through its Tentative Order.

6 Plaintiff's Statement:

7 Since the Court issued its Tentative Order on November 2, 2016, counsel discussed on the phone  
8 on two or three occasions some of the relevant issues and the possibility that Defendant may be willing  
9 to make some disclosures beyond its disclosures to date, but Defendant was continuing to consider its  
10 options. There was also some discussion of whether Plaintiff was willing to accept the Court's Tentative  
11 Ruling before being permitted to review the Court's additional highlighted disclosures in the documents.  
12 However, during those conversations, there was never an offer to provide Plaintiff with a single  
13 additional word in the files beyond what Defendant has previously provided to Plaintiff. At the very end  
14 of the 30-day period, Defendant informed Plaintiff of its definitive decision not to release now any of the  
15 highlighted material in the documents that the Court's Tentative Order asserted should be produced to  
16 Plaintiff. Plaintiff therefore is left with no choice but to request that the Court issue a Final Order.  
17 Plaintiff earnestly thanks the Court for the time devoted to this lawsuit.

18 DATED: December 5, 2016

Respectfully submitted,

19  
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21 /S/  
22 JAMES A. SCHARF  
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23 Attorney for Defendant

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27 ROY S. GORDET  
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