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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

KELSEY CASCADIA ROSE JULIANA;
XIUHTEZCATL TONATIUH M., through his
Guardian Tamara Roske-Martinez; et al.,

Plaintiffs,

v.

The UNITED STATES OF AMERICA;
DONALD TRUMP, in his official capacity as
President of the United States; et al.,

Defendants.

Case No.: 6:15-cv-01517-AA

DECLARATION OF ANDREA K.
RODGERS in Support of Plaintiffs'
Objections to Defendants' Exhibit List

DECLARATION OF ANDREA K. RODGERS in Support of Plaintiffs' Objections to
Defendants' Exhibit List

I, Andrea K. Rodgers, hereby declare and if called upon would testify as follows:

1. I am an attorney of record in the above-entitled action. I make this Declaration in support of Plaintiffs' Objections to Defendants' Exhibit List. I have personal knowledge of the facts stated herein, except as to those stated on information and belief, and if called to testify, I would and could testify competently thereto.
2. On Friday, October 12, 2018, counsel for Defendants sent an email to Plaintiffs stating their intent to file a motion seeking judicial notice of 450 Congressional hearing reports (totaling about 80,000 pages) on Monday, October 15, 2018. **Exhibit 1.** The Defendants provided a spreadsheet identifying the reports, but did not provide copies of the reports. Later that same day, Defendants informed Plaintiffs that they decided not to seek judicial notice of four of the reports, making the new total 446 Congressional hearing reports. **Exhibit 2.** None of the Congressional reports were identified or produced in response to Plaintiffs' First Set of Interrogatories.
3. It was not until Tuesday, October 16, 2018 that Plaintiffs received a USB stick containing the 446 Congressional hearing reports identified on their Exhibit List at Exhibits 1171-1616.
4. After seeking an extension to exchange exhibit lists from October 1 to October 12, Defendants' provided Plaintiffs with their Exhibit List on Friday, October 12. All exhibits not previously disclosed to Plaintiffs had assigned Bates numbers, but Defendants did not produce any of these Bates-stamped documents. None of the documents listed on Defendants' Exhibit List were produced or identified in Defendants' discovery responses, including Defendants' responses to Plaintiffs' Contention Interrogatories that requested such information. Plaintiffs' Contention Interrogatories were served on Defendants on

August, 17, 2018. After granting Defendants a 3-week extension to respond, Plaintiffs received partial responses from Defendants on September 28, 2018 and amended responses on October 7, 2018.

5. On October 15, 2018, counsel for Plaintiffs emailed Defendants asking for access to the documents because the Exhibit List did not contain links to any of the offered documents. **Exhibit 3.** Counsel for Defendants responded, “[o]ur understanding is that all (or virtually all) of the documents listed on Defendants’ exhibit list are in your possession already or are publicly available on the internet.” Defendants stated, “if you are unable to locate any specific documents online using the document description please let us know and we will provide them.” **Exhibit 4.**
6. Counsel for the Plaintiffs reiterated their request for the exhibits and explained “it is not our job to search the Internet for Defendants’ exhibits as there may be multiple sources and we will not know which version Defendants’ intend to use.” **Exhibit 5.**
7. Defendants, continuing with their refusal to provide copies of the exhibits, responded that “the Court did not order the parties to exchange exhibits; it ordered them to exchange exhibit lists, which we have done.” **Exhibit 6.** Defendants stated that they were “preparing production for the Court (and Plaintiffs)” but did not indicate when the production would occur.
8. On October 16, 2018, Plaintiffs again requested, for the third time, Defendants’ exhibits. **Exhibit 7.**
9. On October 17, after searching the Internet for Defendants’ exhibits, Plaintiffs discovered that, contrary to Defendants’ assurances, many of Defendants’ exhibits were not publicly available online. Plaintiffs identified nearly 100 exhibits they were unable to locate.

Exhibit 8.

10. Defendants responded that they could provide the exhibits that Plaintiffs identified via an electronic drop box. **Exhibit 9.**

11. On October 17, 2018, my co-counsel Julia Olson telephoned counsel for the Defendants, Clare Boronow, and said that Plaintiffs needed to receive all documents on the exhibit list, except for the documents already in Plaintiffs' possession, by close of business or early morning overnight delivery for Thursday October 18 so that counsel could attempt to properly review the documents in advance of the October 19 deadline to file exhibit lists and objections with the Court. **Exhibit 10.**

12. On October 17, 2018, Defendants provided Plaintiffs with a new Exhibit List that not only had "further refinements," but renumbered many of the exhibits from their previous list, forcing Plaintiffs to do a significant amount of additional work to cross-reference objections to exhibits previously made. **Exhibit 11.** Defendants also provided Plaintiffs, with a Rule 1006 summary of the Congressional documents that were on their exhibit list and removed those individual documents from the exhibit list. *Id.* Defendants included these Congressional documents in the version of their exhibit list filed with the Court on October 19, 2018, Doc. 396-1.

13. Despite Defendants assurances that they would finally send the exhibits as requested by Plaintiffs on the day before objections to these exhibits were due, Plaintiffs did not receive electronic copies of Defendants' exhibits until 1:00 pm on October 18. When my co-counsel tracked the FedEx shipment, she discovered that the exhibits had not been sent for early morning delivery and instead were scheduled for delivery at 3:00 pm on October 18 despite the fact that my co-counsel had stressed the importance of early

morning delivery both by phone call and email to opposing counsel, Clare Boronow.

Exhibit 12.

14. The exhibit list that Defendants filed (Doc. 396-1) was not the exhibit list that they provided to the Plaintiffs on October 15, 2018 or October 17, 2018. The exhibit list that they filed with the Court contains new exhibit numbers for many of their exhibits and “further refinements.” As such, Plaintiffs’ individual objections listed in Appendix A are to Defendants’ exhibits listed on the October 17, 2018 version of their exhibit list.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED this 19th day of October, 2018.

Respectfully submitted,

/s/ Andrea K. Rodgers
Andrea K. Rodgers, OR Bar 041029

Exhibit 1

From: **Boronow, Clare (ENRD)** <Clare.Boronow@usdoj.gov> Case 6:15-cv-01517-AA Document 401 Filed 10/19/18 Page 7 of 30
Date: Fri, Oct 12, 2018 at 11:07 AM
Subject: Conferral: Juliana v. United States, Motion for judicial notice
To: Julia Olson <juliaaolson@gmail.com>, Andrea Rodgers <andrearodgers42@gmail.com>, Phil Gregory <pgregory@gregorylawgroup.com>
Cc: Duffy, Sean C. (ENRD) <Sean.C.Duffy@usdoj.gov>, Norman, Erika (ENRD) <Erika.Norman@usdoj.gov>, Piropato, Marissa (ENRD) <Marissa.Piropato@usdoj.gov>, Singer, Frank (ENRD) <Frank.Singer@usdoj.gov>

Julia, Andrea, Phil,

We are planning to file a motion seeking judicial notice of 450 Congressional hearing reports on Monday. The motion will seek notice of the existence and authenticity of the reports only, not the truth of any of the statements asserted in the reports. The reports are all official publications of the US Congress. To allow you to better assess the motion and determine your position, I am attaching a spreadsheet of the 450 hearing reports. Please note that the spreadsheet is a draft—although we do not intend to add any additional hearing reports, we are currently proofing the spreadsheet to ensure everything is accurate.

In addition, we plan to file a motion to seek leave to file the 450 reports manually on a flash drive. We would also send a flash drive containing the reports to you via overnight mail. We have had issues in the past uploading numerous large files to CM/ECF and, as you know, have been unable to access the judicial notice documents that you have filed on CM/ECF. Since the reports total about 80,000 pages, we see manual filing as a way to avoid problems on CM/ECF and provide everyone with immediate access to the hearing reports.

Please let me know Plaintiffs' position on each of these motions. I am happy to answer any questions about either motion.

Thank you,
Clare

Clare Boronow
Trial Attorney, Natural Resources Section
Environment & Natural Resources Division
U.S. Department of Justice
(303) 844-1362
clare.boronow@usdoj.gov

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Tab No.	Hearing Title	Committee	Hearing Date
1	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
2	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
3	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
4	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
5	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
6	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
7	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
8	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
9	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18
10	Small Business Administration (SBA)...	US Congress, House Committee on Small Business	8/1/18

 **DENVER-#625597...**

Exhibit 2

From: "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>

Date: October 15, 2018 at 11:39:15 AM PDT

To: Julia Olson <juliaaolson@gmail.com>, Andrea Rodgers <andrearodgers42@gmail.com>, Phil Gregory <pgregory@gregorylawgroup.com>

Cc: "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>, "Norman, Erika (ENRD)" <Erika.Norman@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Singer, Frank (ENRD)" <Frank.Singer@usdoj.gov>

Subject: RE: Conferral: Juliana v. United States, Motion for judicial notice

Julia, Andrea, and Phil,

We have not heard back from Plaintiffs about their position on these two motions that we intend to file today. Please let us know Plaintiffs' position. Otherwise, we will indicate in the motions that we attempted to confer but received no response.

Regarding the motion seeking judicial notice, we have determined not to seek judicial notice for four of the hearing reports on the spreadsheet we sent you (nos. 439, 440, 441, and 442). For that reason, we are now seeking judicial notice of 446 hearing reports. We have made no other changes.

Thank you,
Clare

Exhibit 3

From: Philip Gregory <pgregory@gregorylawgroup.com>
Sent: Monday, October 15, 2018 9:15 AM

To: Norman, Erika (ENRD) <ENorman@ENRD.USDOJ.GOV>; Andrea Rodgers <andrearodgers42@gmail.com>; Julia Olson <juliaaolson@gmail.com>

Cc: Singer, Frank (ENRD) <FSinger@ENRD.USDOJ.GOV>; Piropato, Marissa (ENRD) <MPiropato@ENRD.USDOJ.GOV>; Duffy, Sean C. (ENRD) <SDuffy@ENRD.USDOJ.GOV>;

Boronow, Clare (ENRD) <CBoronow@ENRD.USDOJ.GOV>

Subject: RE: Exhibit List

Counsel,

The attached spreadsheet does not contain links to any of the offered documents. Plaintiffs' exhibit list had links. It will be impossible for us to object to or otherwise take a position on proposed exhibits to which we do not have access.

The documents could be included on the USB stick that you are sending via FedEx with the judicial notice documents. Obviously, if we do not obtain copies of the documents immediately, we may not be able to process objections in a timely manner.

Please send the USB stick to the following [REDACTED] office address:



We also do not understand what is meant by the Witness type, listed as Def. Fact DOE, Def. Fact EPA, etc. Could you please explain?

Regards,

Phil

PHILIP L. GREGORY (SBN 95217)

GREGORY LAW GROUP

[1250 Godetia Drive](#)

[Redwood City, CA 94062](#)-4163

Tel: (650) 278-2957

Email: pgregory@gregorylawgroup.com

Exhibit 4

From: "Norman, Erika (ENRD)" <Erika.Norman@usdoj.gov>

Date: October 15, 2018 at 9:00:06 AM PDT

To: Philip Gregory <pgregory@gregorylawgroup.com>, Andrea Rodgers <andrearodgers42@gmail.com>, Julia Olson <juliaaolson@gmail.com>

Cc: "Singer, Frank (ENRD)" <Frank.Singer@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>, "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>

Subject: RE: Exhibit List

Phil,

Our understanding is that all (or virtually all) of the documents listed on Defendants' exhibit list are in your possession already or are publicly available on the internet. The first ~460 exhibits on the list are deposition transcripts/exhibits and documents Plaintiffs produced to Defendants (e.g., medical records). The last ~450 documents are Congressional documents we are sending to you on the USB stick. The documents in between are publicly available agency documents. However, if you are unable to locate any specific documents online using the document description please let us know and we will provide them.

"Def. Fact DOE," etc. reflects who we anticipate may authenticate the document if introduced at trial and is not intended as a final commitment or intention. "Def. Fact DOE" stands for Defendant fact witness Department of Energy.

Erika

Exhibit 5

From: Philip Gregory

Sent: Monday, October 15, 2018 1:33 PM

To: 'Norman, Erika (ENRD)' <Erika.Norman@usdoj.gov>; Andrea Rodgers <andrearodgers42@gmail.com>; Julia Olson <juliaaolson@gmail.com>

Cc: Singer, Frank (ENRD) <Frank.Singer@usdoj.gov>; Piropato, Marissa (ENRD) <Marissa.Piropato@usdoj.gov>; Duffy, Sean C. (ENRD) <Sean.C.Duffy@usdoj.gov>; Boronow, Clare (ENRD) <Clare.Boronow@usdoj.gov>

Subject: RE: Exhibit List

Erika-

While we understand some of Defendants' exhibits may be publicly available, it is not our job to search the Internet for Defendants' exhibits as there may be multiple sources and we will not know which version Defendants intend to use. Plaintiffs provided Defendants with copies of Plaintiffs' exhibits, in addition to specific links. The failure of Defendants to exchange exhibits upon exchanging exhibit lists is particularly troublesome since Defendants intentionally refused to identify or produce any of these documents even though they are clearly responsive documents to our discovery requests. Please provide us with links to the exhibits not previously provided to us by the close of business today. Otherwise, we will take this matter up directly with the Court.

Regards,

Phil

Exhibit 6

From: "Norman, Erika (ENRD)" <Erika.Norman@usdoj.gov>
Date: October 15, 2018 at 6:06:31 PM PDT

To: Philip Gregory <pgregory@gregorylawgroup.com>, Andrea Rodgers <andrearodgers42@gmail.com>, Julia Olson <juliaaolson@gmail.com>

Cc: "Singer, Frank (ENRD)" <Frank.Singer@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>, "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>

Subject: RE: Exhibit List

Phil,

A few points in response:

First, the Court did not order the parties to exchange exhibits; it ordered them to exchange exhibit lists, which we have done. The Court also stated it would provide further instruction regarding the submission of electronic versions of the exhibits. Although the Court has not yet provided those instructions we have begun preparing a production for the Court (and Plaintiffs), as explained in number three.

Second, producing links or documents by the end of today or even tomorrow is not possible because there are simply not resources to divert to that task. Also, we don't have a separate internal version of the exhibit list with a column for the hyperlink.

Third, in anticipation of needing to submit electronic versions of the exhibits to the Court we have ordered an electronic bates-stamped production from our litigation support office. We expect to have that by the end of the week but I cannot confirm the timing tonight. We are amenable to a joint motion to extend the deadline for exhibit objections.

Fourth, we don't understand your reference to "multiple sources" and versions. If you could provide an example that would be helpful.

Thank you,

Erika

Exhibit 7

Date: Tue, Oct 16, 2018 at 1:15 PM

Subject: RE: Exhibit List

To: Norman, Erika (ENRD) <Erika.Norman@usdoj.gov>, Andrea Rodgers <andrearodgers42@gmail.com>, Julia Olson <juliaaolson@gmail.com>

Cc: Singer, Frank (ENRD) <Frank.Singer@usdoj.gov>, Piropato, Marissa (ENRD) <Marissa.Piropato@usdoj.gov>, Duffy, Sean C. (ENRD) <Sean.C.Duffy@usdoj.gov>, Boronow, Clare (ENRD) <Clare.Boronow@usdoj.gov>

Erika,

On October 12, Defendants identified for the first time by email to Plaintiffs approximately 1,600 documents comprising their exhibit list. Defendants admit this amounts to 80,000 pages worth of documents. Defendants did not provide any hard copy materials or links to any documents at that time, nor were these documents identified or produced in response to Plaintiffs' discovery requests, which sought all documents relevant to Defendants' defenses in the case. We note that in the Boronow declaration filed in support of Defendants' motion in limine, it states that you began to access the Congressional documents "over a period of weeks in September 2018," when our discovery requests were pending; however, Defendants did not then identify or produce these documents. We have repeatedly asked Defendants to provide us with links or electronic copies of all of your exhibits. A court does not need to order you to turn over the exhibits you intend to use at trial to the other side, especially when the other side has a time deadline to object to those exhibits. That is simply standard practice and a requirement for you to be able to introduce the documents at trial.

Plaintiffs are prejudiced by Defendants' failure to respond timely and fully to discovery and pre-trial obligations. Defendants' complete failure to identify and produce their exhibits in a timely manner will be brought to the attention of the Court and will be reflected in our objections to your exhibits that will be filed on Friday.

Regards,

Phil

Exhibit 8

From: **Andrea Rodgers** <andrearodgers42@gmail.com>
Date: Wed, Oct 17, 2018 at 11:13 AM
Subject: Juliana v. United States, Defendants' Exhibits
To: Singer, Frank (ENRD) <frank.singer@usdoj.gov>, Piropato, Marissa (ENRD) <Marissa.piropato@usdoj.gov>, Duffy, Sean C. (ENRD) <sean.c.duffy@usdoj.gov>, Norman, Erika (ENRD) <Erika.Norman@usdoj.gov>, Boronow, Clare (ENRD) <clare.boronow@usdoj.gov>
Cc: Julia Olson <juliaaolson@gmail.com>, Philip Gregory <pgregory@gregorylawgroup.com>

Counsel-

Contrary to your assurances that the exhibits you have identified on your exhibit list are publicly available, we have been unable to locate or access a number of your exhibits. After our initial review, below are the exhibits that cannot be located. We ask that you provide us with electronic copies of all of these exhibits by close of business today.

Thank you,
Andrea

Exhibit 469: Transportation Statistics Annual Report Chapter 7 Transportation Energy Use and Environmental Impacts

Exhibit 472: Climate Change and Transportation Infographic.

Exhibit 473: FHWA Alternative Fuel Corridors Summary

Exhibits 477-483 : Impacts of Climate Change and Variability on Transportation Systems and Infrastructure Gulf Coast Study All Phases

Exhibits 488-493

Exhibit 496: Loan Programs Office Portfolio Performance Results

Exhibit 500: COP21 Side Event "Nuclear Power: A Sustainable, Clean Power Source"

Exhibits 502-505

Exhibits 507-511

Exhibit 515

Exhibit 520

Exhibit 525

Exhibits 529-530

Exhibit 532

Exhibit 539

Exhibit 542, 543

Exhibits 546-550

Exhibit 554

Exhibit 590

Exhibit 594

Exhibit 615

Exhibit 617-619

Exhibit 621

Exhibit 624-25

Exhibit 627

Exhibit 632

Exhibit 634

Exhibit 638-639

Exhibit 651

Exhibit 653

Exhibit 671

Exhibit 673

Exhibit 675

Exhibit 678-679

Exhibit 682

Exhibit 690

Exhibits 703-705

Exhibit 707

Exhibit 713

Exhibit 716

Exhibit 719

Exhibit 727-728

Exhibit 731-732

Exhibit 734

Exhibit 736

Exhibit 762

Exhibit 783

Exhibit 790

Exhibit 792

Exhibit 837-842

Exhibit 852

Exhibit 862

Exhibit 864-865

Exhibit 931

Exhibit 938

Exhibit 967

Exhibit 969

Exhibit 970

Exhibit 1011

Exhibit 1014

Exhibit 1027

Exhibit 1074

Exhibits 1101-1102

Exhibit 1112

Exhibit 1118

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Andrea K. Rodgers
Attorney
Law Offices of Andrea K. Rodgers
andrearodgers42@gmail.com
T: (206) 696-2851

Exhibit 9

From: Norman, Erika (ENRD) <Erika.Norman@usdoj.gov>

Sent: Wednesday, October 17, 2018 12:13 PM

To: Andrea Rodgers <andrearodgers42@gmail.com>; Singer, Frank (ENRD) <Frank.Singer@usdoj.gov>; Piropato, Marissa (ENRD) <Marissa.Piropato@usdoj.gov>; Duffy, Sean C. (ENRD) <Sean.C.Duffy@usdoj.gov>; Boronow, Clare (ENRD) <Clare.Boronow@usdoj.gov>

Cc: Julia Olson <juliaaolson@gmail.com>; Philip Gregory <pgregory@gregorylawgroup.com>

Subject: RE: Juliana v. United States, Defendants' Exhibits

Hi Andrea,

I'm told we can provide these ~100 documents later today via an electronic drop box (box.com). I do need the following information from you or the person at OCT you would like to receive them.

Thanks,

Erika

Nominee Name (Last, First) (1):	<input type="text"/>
Citizenship 1:	<input type="text"/>
Nominee Email Address (1):	<input type="text"/>
Nominee Contact Number (1):	<input type="text"/>



Exhibit 10

From Julia Olson <juliaaolson@gmail.com>
Sent Wednesday, October 17, 2018 4 42 PM
To Boronow, Clare (ENRD) <CBoronow@ENRD.USDOJ.GOV> Norman, Erika (ENRD) <ENorman@ENRD.USDOJ.GOV> Duffy, Sean C. (ENRD) <SDuffy@ENRD.USDOJ.GOV>
Cc Pirodato, Marissa (ENRD) <MPirodato@ENRD.USDOJ.GOV> Singer, Frank (ENRD) <FSinger@ENRD.USDOJ.GOV> Andrea Rodgers <andrearodgers42@gmail.com> Phil Gregory <pgregory@gregorylawgroup.com>
Subject Document Exhibits

Clare,

We just spoke by phone. I told you that we expected all of the documents on your exhibit list, except for Plaintiffs' records or the deposition exhibits, to be delivered via a thumb drive by early morning overnight delivery for Thursday, October 18 at the latest. Alternatively, you could provide us a dropbox or other cloud link to the documents. Nearly all of the documents on your exhibit list are Bates stamped, which means you are in possession of them and have processed them, since at least last Friday when you served the list.

In response to my question, you said you had no authority to agree to provide us with the documents and that you would confer with Erika and Sean to see if it could be done. It is highly prejudicial to Plaintiffs for you not to provide these documents until now and will prejudice us further to not receive them by today or tomorrow morning so that we have an opportunity to at least see the document before filing our objections on Friday.

As you know, we have tried to begin finding the documents and many we cannot locate. For others, we are unsure if we have the correct document. It is frankly unprofessional and unbelievable that you would withhold these documents from us when you have them and they are Bates stamped. You requested of us the professional courtesy of hyperlinks and Bates stamped documents sent to you via thumb drive, which we have done. We have also repeatedly accommodated your requests to send you documents you had trouble downloading from ECF.

Further, I want to note that in our meet and confer about exhibits, before our last status conference with Judge Coffin, Marissa and Sean said that you would not have many exhibits. They said it would largely be the exhibits from the depositions and perhaps a few others. Sean indicated that typically he would only have about 70 exhibits at trial and criticized Plaintiffs for the number of exhibits we intended to use. You have now presented us with a list of 1581 exhibits, most of which are new documents we had not previously seen from you during depositions.

It is my expectation that Sean and Erika will confirm today that we will have the documents by downloadable link today or by thumb drive for early morning delivery tomorrow. Please confirm.

Regards,

Julia
Julia Olson
Wild Earth Advocates
1216 Lincoln St
Eugene, OR 97401
415 786 4825
juliaaolson@gmail.com

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Exhibit 11

From: "Norman, Erika (ENRD)" <Erika.Norman@usdoj.gov>
Date: October 17, 2018 at 6:18:28 PM PDT

To: Julia Olson <juliaaolson@gmail.com>, "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>, "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>

Cc: "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Singer, Frank (ENRD)" <Frank.Singer@usdoj.gov>, Andrea Rodgers <andrearodgers42@gmail.com>, Phil Gregory <pgregory@gregorylawgroup.com>

Subject: RE: Document Exhibits

Hi Julia,

I can confirm that all of the agency documents on our exhibit list (i.e., those documents for which the witness type is denoted Defs. Fact [Agency]) have been placed on a thumb drive and have been overnighted to you (FedEx Shipment [REDACTED]) along with a copy of the current version of the exhibit list with exhibit numbers (this will make finding the documents on the thumb drive easier). We have not included documents that you already have access to or which have already been produced to you. These include the 446 Congressional hearing reports that were sent to you earlier this week on a thumb drive, as well as deposition transcripts and exhibits and Plaintiffs' medical records. We have prepared a Rule 1006 summary of the congressional documents, which is attached and is included on the current exhibit list. As was no doubt intended by the Court when she set the deadlines for the exchange of exhibit lists and the filing of exhibit lists a week apart, we have taken this opportunity to make further refinements to our exhibit list. You now have the most current version ahead of Friday, and as of tomorrow you will have copies of all of the documents on that list. The work I described to counsel in my email on Monday 10/15 to process and bates stamp all of Defendants' exhibits is ongoing and is still expected to be completed on Friday. I mention this because the documents you receive tomorrow will have the DX number, but they may not have the bates number.

Thank you,

Erika

Exhibit 12

From: Julia Olson <juliaolson@gmail.com>
Date: October 18, 2018 at 4:49:17 PM PDT
To: "Norman, Erika (ENRD)" <Erika.Norman@usdoj.gov>
Cc: "Boronow, Clare (ENRD)" <Clare.Boronow@usdoj.gov>, "Duffy, Sean C. (ENRD)" <Sean.C.Duffy@usdoj.gov>, "Piropato, Marissa (ENRD)" <Marissa.Piropato@usdoj.gov>, "Singer, Frank (ENRD)" <Frank.Singer@usdoj.gov>, Andrea Rodgers <andrearodgers42@gmail.com>, Phil Gregory <pgregory@gregorylawgroup.com>
Subject: Re: Document Exhibits

Erika,

We received the thumb drive this afternoon. I had requested that you send them for early morning delivery and you did not.

Here is the FedEx information showing regular overnight delivery scheduled for 3 p.m. leaving us very little time to review the documents and prepare our objections, which are due tomorrow. Again, this lack of professionalism and courtesy is concerning, counter to the collegiality this District Court expects of counsel, and prejudicial to Plaintiffs.

Julia

TRACK ANOTHER SHIPMENT



Scheduled delivery:
Thursday 10/18/2018 by 3:00 pm

