

1
2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
4 **SAN FRANCISCO/OAKLAND DIVISION**

5
6 Zachary NIGHTINGALE, *et al.*,

7 Plaintiffs,

8 v.

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

11 Defendants.

No. 3:19-cv-03512-WHO

**FOURTH DECLARATION OF
FERNANDO PINEIRO**

12
13 I, Fernando Pineiro, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

14 1. I am the Acting Freedom of Information Act (“FOIA”) Officer of the Freedom of
15 Information Act Office (the “ICE FOIA Office”) at U.S. Immigration and Customs Enforcement
16 (“ICE”). The ICE FOIA Office is responsible for processing and responding to all FOIA, 5
17 U.S.C. § 552, and Privacy Act, 5 U.S.C. § 552a, requests received at ICE.

18 2. My official duties and responsibilities include the general management,
19 oversight, and supervision of the ICE FOIA Office. In that capacity, I am the ICE official
20 immediately responsible for supervising ICE responses to requests for records under the FOIA,
21 the Privacy Act, and other applicable records access statutes and regulations. I manage and
22 supervise a staff of ICE FOIA Paralegal Specialists and contractors, who report to me regarding
23 the processing of FOIA and Privacy Act requests received by ICE. Due to my experience and
24 the nature of my official duties, I am familiar with ICE’s procedures for responding to requests
25 for information pursuant to provisions of the FOIA and the Privacy Act.

26 3. I have held this position since July 10, 2019. Prior to this position, I was the
27 Deputy FOIA Officer of the ICE FOIA Office from December 29, 2013 to July 9, 2019. Prior
28

1 to that, I was the FOIA Officer for three years at the Office for Civil Rights and Civil Liberties
2 at the U.S. Department of Homeland Security (“DHS”).

3 4. I make this declaration in my official capacity based on my personal knowledge,
4 my review of records kept in the ordinary course of business, and information provided to me in
5 the course of my official duties.

6 5. This declaration is submitted in support of Defendants’ Second Compliance
7 report, per the Court’s April 6, 2021 order. ECF No. 100. The purpose of this declaration is to
8 provide the Court with an update regarding ICE’s full compliance with the Court’s Order and
9 Judgment. ECF Nos. 89 & 90.

10 **Status of Backlog**

11 6. Since December 17, 2020, through extensive efforts of ICE FOIA staff and other
12 personnel, ICE has reached its goal of completely eliminating its A-File FOIA backlog. This
13 progress was made possible primarily due to the 2020 Memorandum of Agreement between
14 USCIS and ICE, which enabled ICE to focus its existing resources singularly on eliminating its
15 A-File FOIA backlog. *E.g.*, Declaration of Fernando Pineiro, ECF No. 75-5 ¶ 26.

16 a. For the 60-day period following the Court’s Order and Judgment, from
17 December 17, 2020 through February 16, 2021,¹ ICE reduced the number of
18 backlogged requests by approximately 73 percent. Second Declaration of
19 Fernando Pineiro, ECF No. 97-2 ¶ 6(a). That is, the number of backlogged
20 requests dropped from 19,885 to 5,442 requests. *Id.*

21 b. For the 90-day period following the Court’s Order and Judgment, from
22 December 17, 2020 through March 17, 2021, ICE further reduced the number of
23 backlogged requests by an additional approximately 27 percent. *Id.* ¶ 6(b). That
24

25
26 ¹ Because February 15, 2021 was a federal holiday, the relevant 60-day deadline fell on
February 16, 2021. *See* Fed. R. Civ. P. 6(a)(1)(C).

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

is, the number of backlogged requests dropped from 5,442 to 47 requests. *Id.*
Those 47 requests consisted of files with technical issues that ICE was working
with USCIS to fix in order to process. *Id.*

- c. For the 90-day period following Defendants’ first Compliance Report, from
March 17, 2021 through June 15, 2021, ICE resolved the technical issues and
eliminated its remaining backlog in full, achieving full compliance with the
Court’s injunction.

I declare under penalty of perjury that the forgoing is true and correct.

Signed this 15th day of June, 2021.

Fernando Pineiro, Acting FOIA Officer
Freedom of Information Act Office
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
500 12th Street, S.W., Stop 5009
Washington, DC 20536-5009