

Date : 8/20/2015 10:41:16 PM

From : "Bitter, Adam" Adam.Bitter@texasattorneygeneral.gov

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Cc : "Colmenero, " Angelaangela.colmenero@texasattorneygeneral.gov, "Keller, " ScottScott.Keller@texasattorneygeneral.gov, "Potapov, " AlexAlex.Potapov@texasattorneygeneral.gov, "Frederick, " Matthewmatthew.frederick@texasattorneygeneral.gov, "Hudson, " EricEric.Hudson@texasattorneygeneral.gov, "Barker, " CamCam.Barker@texasattorneygeneral.gov

Subject : RE: Texas v. United States - Entry of Protective Order

Attachment : 298 Stipulated Protective Order.pdf;

PRIV/CONF/ATTORNEY-CLIENT/COMMON INTEREST

All,

Late today, the Court entered the parties' agreed-upon protective order in the immigration case. As you will recall, this order covers the disclosure to each Plaintiff State of certain personally identifiable information for each State's residents who received a three-year term of employment authorization after the Court's February 16 injunction. For those Plaintiffs who have provided me with a point of contact for this disclosure, we anticipate that you will receive the personally identifiable information from DOJ or DHS via encrypted email messages in the coming days.

We recommend that you read the terms of the protective order closely, and of course we can have further discussions with you about the protective order (and the parties' obligations under the order) once you receive the data. In the meantime, however, we wanted to call your attention to the following provisions:

- Paragraph 4 addresses the individuals to whom each Plaintiff State's counsel can disclose the personally identifiable information, which includes certain persons regularly employed by each Plaintiff State's counsel or employed by a "state benefit or license-issuing agency or other institution" who have a need for the information to evaluate the cost of potential corrective action and undertake any such action.
- Paragraph 5 outlines the procedures for any such disclosure of personally identifiable information by each Plaintiff State's counsel, including that certain individuals who are provided the information by counsel must read the protective order and sign the accompanying Acknowledgment of Protective Order. This paragraph also requires each Plaintiff State's counsel to maintain a log of individuals to whom the personally identifiable information is disclosed, and contains procedures regarding the return or destruction of such information.
- Paragraph 6 covers the permissible uses for the personally identifiable information, providing that the information can only be used "for the purpose of evaluating the cost of potential corrective actions being considered by Plaintiffs and for the purpose of undertaking such corrective action, and may not use, disclose, or share the information to any other person or for any other purpose." This paragraph also addresses the steps a state agency must take to ensure it is utilizing the most up-to-date information regarding an individual's immigration status before undertaking any corrective action.

Thanks,

Adam

**Adam N. Bitter**

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**From:** Bitter, Adam

**Sent:** Friday, August 07, 2015 5:27 PM

**To:** 'A. Piper (South Carolina)'; 'Allen Winsor'; 'Andr e S. Blumstein'; 'Andrew Brasher'; 'B. Cook (South Carolina)'; 'B. Grant (Georgia)'; 'B. Romano (Utah)'; 'Bill Cody'; 'Bob Stephens'; 'Cally Younger'; 'Chanay, Jeff'; 'Charles McGuigan'; 'D.P. Lennington'; 'Dale S. (Montana)'; 'Dave Lopez'; 'David Curran'; 'Delberta Pfeifer'; 'Drew Snyder'; 'Dwight Carswell'; 'Elbert Lin'; 'Eric Murphy'; 'Hancock Fenton'; 'Joe Chapelle (Indiana)'; 'Lawrence J.C. VanDyke'; Aaron Lindstrom; 'Lindsey Wakely'; 'Michael Tryon'; 'Misha Tseytlin'; 'Nels Peterson'; 'Parker Douglas'; 'Patrick Wyrick'; 'Peter Rusthoven'; 'Ryan Post'; 'T. Phillips'; 'T. Trenbeath'; 'Talley, Brett'; Lopez, John; 'wiltonp@ag.state.la.us'; 'Emory Smith'; Williams, Rich; 'Lucy Haynes'; 'tylergreen@utah.gov'; 'Nealis, Teri'

**Cc:** Colmenero, Angela; Keller, Scott; Potapov, Alex; Frederick, Matthew; Hudson, Eric; Barker, Cam; Bitter, Adam

**Subject:** RE: Texas v. United States - Yesterday's Filing, Status of Agreed Protective Order

PRIV/CONF/ATTORNEY-CLIENT/COMMON INTEREST

All,

Just wanted to circulate a quick update regarding two items on the immigration case:

1. Yesterday, we filed the attached response to DOJ's motion to cancel, or excuse certain witnesses from, the August 19 show-cause hearing. DOJ requested that the Court rule on its motion by next Monday, August 10, so we should have further updates one way or another regarding this motion by early next week. We will keep you updated.
2. We are continuing to collect signatures/authorizations from the Plaintiff States for the agreed protective order. Thank you so much to everyone for your assistance on this. Attached is the current version of the order with the signatures we have received so far. The substance of the protective order is unchanged from the version I sent last Sunday. On page 8 of the order, we have added a footnote reflecting that those signatories who have not been admitted to practice in the Southern District of Texas or appeared in the case are signing the order only to reflect their respective plaintiff's agreement to the terms of the order; this was included in response to requests from some of the States, and we have confirmed with the Court's staff that they have no objection to this approach. I will continue to be in touch with those states for whom we are awaiting a signature; once we have all the signatures, we will jointly file the order with DOJ.

Please let us know if you have any questions.

Thanks,

Adam

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**From:** Bitter, Adam

**Sent:** Sunday, August 02, 2015 1:05 PM

**To:** 'A. Piper (South Carolina)'; 'Allen Winsor'; 'Andr e S. Blumstein'; 'Andrew Brasher'; 'B. Cook (South Carolina)'; 'B. Grant (Georgia)'; 'B. Romano (Utah)'; 'Bill Cody'; 'Bob Stephens'; 'Cally Younger'; 'Chanay, Jeff'; 'Charles McGuigan'; 'D.P. Lennington'; 'Dale S. (Montana)'; 'Dave Lopez'; 'David Curran'; 'Delayne Deck'; 'Delberta Pfeifer'; 'Drew Snyder'; 'Dwight Carswell'; 'Elbert Lin'; 'Eric Murphy'; 'Hancock Fenton'; 'Joe Chapelle (Indiana)'; 'Lawrence J.C. VanDyke'; 'Lind Stroma'; 'Lindsey Wakely'; 'Michael Tryon'; 'Misha Tseytlin'; 'Nels Peterson'; 'Parker Douglas'; 'Patrick Wyrick'; 'Peter Rusthoven'; 'Ryan Post'; 'T. Phillips'; 'T. Trenbeath'; 'Talley, Brett'

**Cc:** Colmenero, Angela; Keller, Scott; Potapov, Alex; Frederick, Matthew; Hudson, Eric; Barker, Cam; Bitter, Adam

**Subject:** Texas v. United States - Friday's Filings, Agreed Protective Order for States' Signatures

PRIV/CONF/ATTORNEY-CLIENT/COMMON INTEREST

All,

We are writing to provide you a couple of updates on the immigration case since our message from Friday afternoon, including [one action item for each of the States to complete in the coming week](#).

- DOJ withdrew its demand that the parties' protective order or joint status report contain a provision requiring the States to notify the Defendants of any corrective action undertaken with respect to individuals who were erroneously issued three-year grants after the

Court's February 16 injunction. Instead, the parties presented their respective positions on this issue in the joint status report.

- In light of DOJ's agreement to drop the notification requirement, the protective order that I circulated on Friday reflects the form on which the parties have reached agreement. I have attached a clean copy of the agreed-upon protective order, which is identical to Friday's version except for minor revisions to the signature pages. As we've mentioned previously, each state will need to provide a signature from one of its counsel to indicate its agreement to the protective order. **Please provide our office with an electronic signature from your state and authorization to include the signature in the protective order.** (Please also indicate how you would like your state's signature block to appear in the order.) **We would like to have a signed, finalized order submitted to the Court by the end of this coming week.**
- I have attached a copy of the parties' joint status report, which was filed late Friday.
- As we expected, late Friday DOJ also filed a motion asking the Court to cancel the August 19 show-cause hearing or, alternatively, to excuse the attendance of the individual defendants except USCIS Director Leon Rodriguez. (Although the motion is styled as "unopposed," it is more accurately described as one on which we took no position.) We will keep you updated on any response or advisory we file with respect to DOJ's motion later this week.

Please let us know if you have any questions.

Thanks,

Adam

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