

1 JEFFREY BOSSERT CLARK
Acting Assistant Attorney General
2 ALEXANDER K. HAAS
Branch Director
3 DIANE KELLEHER
4 BRAD P. ROSENBERG
Assistant Branch Directors
5 M. ANDREW ZEE
ALEXANDER V. SVERDLOV
6 Trial Attorneys
7 U.S. Department of Justice
Civil Division - Federal Programs Branch
8 1100 L Street, NW
Washington, D.C. 20005
9 Telephone: (202) 305-0550

10 *Attorneys for Defendants*

11
12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN JOSE DIVISION**

16 NATIONAL URBAN LEAGUE, *et al.*,

17 Plaintiff,

18 v.

19 WILBUR L. ROSS, JR., *et al.*,

20 Defendants.
21
22
23
24
25
26
27
28

Case No. 5:20-cv-05799-LHK

**DEFENDANTS' RESPONSE TO THE
COURT'S ORDER DATED SEPTEMBER
27, 2020, ECF No. 215**

1 Defendants respectfully submit this response to the Court’s Order dated September 27,
2 2020, ECF No. 215, to address the allegations submitted to the Court, ECF No. 214.

3 As detailed in the attached declaration of James T. Christy, Assistant Director for Field
4 Operations in the Census Bureau, the Census Bureau’s field operations have been proceeding
5 under the procedures the Bureau announced following the entry of the Court’s September 5, 2020,
6 Temporary Restraining Order, ECF No. 84. Christy Decl. ¶ 2; *see also* ECF No. 86 at 10-11
7 (laying out field guidance). Following the issuance of the Court’s September 24, 2020 Preliminary
8 Injunction Order, ECF No. 208, Mr. Christy transmitted “an email to all managers working on
9 field operations at Headquarters and in the regions” apprising those staff of their obligations under
10 the Order, and stating that enumeration would continue. Christy Decl. ¶ 3.

11 Upon receipt of the Court’s Order dated September 27, 2020, and the appended screenshots
12 of communications apparently received by some enumerators in a Texas area census office, ECF
13 No. 214, Mr. Christy undertook an investigation into whether, and why, such communications
14 could have been transmitted. *Id.* ¶¶ 5-7. Mr. Christy determined that the message at issue was
15 transmitted before the supervisor in the particular office received the guidance Mr. Christy sent on
16 September 25, 2020. *Id.* ¶¶ 6-7. Mr. Christy communicated with the supervisor, and confirmed
17 that the supervisor had subsequently clarified the appropriate procedures for staff to follow in light
18 of the Court’s PI Order. *Id.* ¶ 7. As Mr. Christy explains, “[t]he information reflected in the
19 communication referenced by the Court is not part of any instruction I have transmitted to the field,
20 and not consistent with my understanding of what field offices should be doing.” *Id.* ¶ 5.

21 Defendants remain in the process of determining what, if any, additional operational
22 guidance may be provided to field offices following the Court’s PI Order.

1 DATED: September 28, 2020

Respectfully submitted,

2
3 JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

4 ALEXANDER K. HAAS
5 Branch Director

6 DIANE KELLEHER
7 BRAD P. ROSENBERG
8 Assistant Branch Directors

9 /s/ Alexander V. Sverdlov
10 ALEXANDER V. SVERDLOV
11 (New York Bar No. 4918793)
12 M. ANDREW ZEE (SBN 272510)
13 Trial Attorneys
14 U.S. Department of Justice
15 Civil Division - Federal Programs Branch
16 1100 L Street, NW
17 Washington, D.C. 20005
18 Telephone: (202) 305-0550

19 *Attorneys for Defendants*

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

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of September, 2020, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing.

/s/ Alexander V. Sverdlov
ALEXANDER V. SVERDLOV