



June 9, 2026

Via email to Courtroom Deputy at kasubhai_crd@ord.uscourts.gov

The Honorable Mustafa T. Kasubhai
United States District Court for the District of Oregon
Wayne L. Morse United States Courthouse
405 East Eighth Avenue, Room 5500
Eugene, Oregon 97401-2706

Re: Discovery Dispute, *M-J-M-A- v. Hermosillo*, 25-cv-02011-MTK

Dear Judge Kasubhai:

At issue in this discovery dispute is Respondents' deficient document production in response to the Court's January 22, 2026, order. *See* ECF 69. As summarized below, the parties have conferred several times by email and video conference to resolve and narrow the discovery dispute. Petitioner requests the Court's intervention to resolve the remaining issues.

Timeline of Discovery Discussions

On January 22, 2026, the Court ordered the production of specific items within 30 days of the order. *See* ECF 69. On February 23, 2026, Respondents' counsel requested an extension to produce Request #3, subletters (b), (c) and (d), and Request #9 subletters (n) through (l), *see* ECF 86, which was granted by the Court on February 25, 2026, *see* ECF 87.

On February 23, 2026, Respondents produced the first set of documents. The production consisted of 16 files with bates numbering signaling they were from Respondent CBP, and 163 files similarly captioned from Respondent ICE. Respondents did not classify their production into the RFP categories identified in the Court's order, and did not provide a privilege log nor an explanation for the redactions for what Petitioner's counsel understands to be Respondent's ICE production. Upon review of the produced documents, Petitioner's counsel was unable discern which documents were responsive to each category of production given the heavy redaction.

On March 4, 2026, Petitioner's counsel asked Respondents' counsel for a video conference conferral to resolve the issues with the production (i.e. the redactions and lack of classification of the documents produced) and to request a privilege log. During this call, Respondents' counsel explained that any redactions were due to the law enforcement privilege or because the documents contained "personally identifiable information." Respondents' counsel indicated they would provide a privilege log at a later time. When asked to categorize the production according to its

corresponding RFP categories and sub-categories, Respondents' counsel stated that they were not able to provide that information during the call, but would provide it at a later time. Additionally, Respondents' counsel requested additional time to produce a limited number of records. Petitioner agreed to receive those documents on March 11.

On March 11, 2026, Respondents' counsel sent a letter to Petitioner's counsel explaining that they were unable to produce the documents referenced in the call but still working to provide the information. In response, Petitioner asked if Respondents were also intending to provide the rest of the documents, the categorization of the production, and the privilege log.

In response, on March 12, 2026, Respondents produced an additional page with redactions they state have been made under the law enforcement privilege.

On March 19, 2026, counsel for Petitioner contacted Respondents' counsel to inquire about the state of the missing production. Respondents' counsel replied on March 23, 2026 acknowledging that they had missed their production deadlines and that indeed the production was incomplete.

On March 26, they indicated they could provide a production categorization by March 30, however, they had encountered difficulties in recreating agency database checks to supplement their production.

On March 30, Respondents reproduced a series of documents that had contained improperly redacted information and provided a production categorization table that indicated the documents responsiveness to the main request categories, but not the sub-categories, and signaled the reason for the redactions, including law enforcement privilege. *See attached* Ex. A Respondents' Discovery Production Categorization.

On April 27, 2026, Petitioner requested to confer with Respondents with regards to their recent production and attempt to resolve some of the deficiencies. On May 4, 2026, the parties held a second videoconference and attempted to once more resolve the lingering discovery issues.

After the above attempts to resolve the pending issues, three key disputes remain:

1. Respondents have improperly asserted the "law enforcement" privilege.

The Respondents have withheld in full or in part by means of redaction numerous responsive documents required to be produced by attempting to claim the "law enforcement privilege." The Court should order production of these responsive documents in full for five reasons:

a) The "law enforcement privilege" is not a recognized privilege under the law.

Neither the U.S. Supreme Court nor the Ninth Circuit have expressly recognized the law enforcement privilege. *See Shah v. U.S. Dep't of Justice*, 714 F.Appx 657, 659 n.1 (9th Cir. 2017). Nevertheless, district courts have assumed without deciding that the privilege exists and have

applied it to protect the integrity of law enforcement techniques, sources and investigations, and to prevent interference to pending investigations. *See Lien v. City Of San Diego*, No. 21-CV-224-MMA (WVG), 2022 WL 134896, at *2 (S.D. Cal. Jan. 14, 2022); *Nio v. United States Dep't of Homeland Sec.*, 314 F. Supp. 3d 238, 243 (D.D.C. 2018). Even if it exists, it is not clear that the privilege applies to civil immigration enforcement.

b) Respondents have failed to properly invoke any privilege at all.

Respondents have failed to invoke any privilege, and it is therefore waived.

First, the burden is on Respondents to properly invoke the law enforcement privilege. *Perdomo v. Noem*, 2026 WL 166570, *5 (C.D. Cal. Jan. 16, 2026); *See United States v. Martin*, 278 F.3d 988, 999–1000 (9th Cir. 2002). They must make “(1) a formal claim of privilege by the head of the department having control over the requested information; (2) assertion of the privilege based on actual personal consideration by the official; and (3) a detailed specification of the information for which the privilege is claimed, with an explanation why it properly falls within the scope of the privilege.” *Id.*; *Nio*, 314 F. Supp. 3d at 243 (same).

Here, the Respondents have done none of the things required to invoke the privilege. The Respondents have provided no privilege log and have been on notice of this deficiency since March 4. *See Burlington Northern*, 408 F.3d at 1149 (finding privilege waived where privilege log produced five months late). They initially claimed that their redactions on the produced documents were based on law enforcement privilege through emails sent by their legal assistant which contained the link to download the discovery production which read: “CBP is asserting law enforcement privilege for all redactions in the CBP bates-stamped documents, except the Excel spreadsheet titled “Operation Black Rose.” CBP asserts the redactions in that spreadsheet are law enforcement sensitive.” Later, on March 30, 2026, upon request from Petitioner, Respondents produced the categorization table referenced above, where they introduce explanations for the redactions on their production. *See Ex. A*. This table fails to qualify as an invocation of any privilege because it is a boilerplate objection that fails to conform with the specific requirements for the law enforcement privilege.¹

Second, the Respondents have “the burden of showing the privilege applies to the documents at issue[.]” *Perdomo*, 2026 WL 166570, at *5. They have not done so here and more importantly, they appear to assert an expansion of the privilege to responsive documents that exceed even the scope of what the Ninth Circuit has referenced as “law enforcement techniques, sources and investigations[.]” *Shah*, 714 F.Appx at 659 n.1. In their table, they describe the privilege as applying to “techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and

¹ It also does not comport with Rule 26’s privilege log requirements. *Burlington Northern*, 408 F.3d 1149 (9th Cir. 2005) (“We hold that boilerplate objections or blanket refusals inserted into a response to a Rule 34 request for production of documents are insufficient to assert a privilege.”); *Clarke v. Am. Commerce Nat'l Bank*, 974 F.2d 127, 129 (9th Cir. 1992) (defining privilege log and outlining requirements).

such disclosure could reasonably be expected to risk circumvention of the law[.]” (emphasis added).

c) The “law enforcement privilege” does not apply here.

The law enforcement privilege does not apply to this matter at all because the investigation and operation have concluded. *See Youngblood v. Gates*, 112 F.R.D. 342, 345 (C.D. Cal. 1985) (holding that “since the investigation is no longer ongoing, the consensus is that a litigant should be allowed access to law enforcement files as needed to develop his civil action.”).

In the present case, the immigration agencies’ investigation regarding M-J-M-A- has ended. *See* ECF 26 at 2 (“Petitioner was released from ICE custody without imposition of any conditions on her release. No Notice to Appear was filed or will be filed as a result of her October 30, 2025, arrest.”). Moreover, Respondents’ Enforcement Operation in Oregon has ended according to their own officials. *See* Conrad Wilson, *Portland immigration operation spanned months, included 100 ICE agents*, OPB, <https://perma.cc/2AT5-TYLW> (April 16, 2026), <https://www.opb.org/article/2026/04/15/operation-black-rose-portland-immigration/> (citing letter from Todd Lyons that detailed the operation “ran between Sept. 27 and March 1, [2026].”). Since there is no present investigation or ongoing operation in the state by Respondents’ own account, any claim of law enforcement is baseless and inappropriate.

d) When invoked, the law enforcement privilege is a qualified privilege.

The law enforcement privilege is not absolute but is a qualified privilege that requires “a need to balance the public interest in nondisclosure against the need of the particular litigant for access to the privileged information.” *Hemstreet v. Duncan*, 2007 WL 4287602, at *2 (D. Or. Dec. 4, 2007) (internal citations omitted).

Similarly, Respondents have failed to provide any explanations as to why it is in the public interest to not disclose the information contained in the Court-ordered production. In contrast, Petitioner has presented to the Court full explanations as to why the requested discovery is relevant and appropriate to properly litigate their case.

e) There is a protective order in place that covers all discovery documents designated as confidential.

The first provision of the Protective Order, ECF 42, states that “[a]ll documents and other materials produced by the parties in this case and labeled “Confidential” shall be used only in this proceeding.” Moreover, the confidential designation of documents protects the disclosed information and restricts its use solely for the litigation of the case. As such, none of the materials that have been produced by Respondents would be subject to public disclosure that would “risk circumvention of the law.” Thus, the Court should order Respondents to produce all the documents without any redactions asserted under the law enforcement privilege.

2. Respondents have improperly redacted information as “personally identifiable information.”

Respondents have withheld in full or in part numerous responsive documents by redacting “personally identifiable information” (PII). The Court should order production of these responsive documents in full because “PII” is not a recognized basis under Fed. R. Civ. P. 26(b)(1), and the protective order in this case mitigates any concern about third party information in general and, in particular, under the Privacy Act.

In the context of discovery, PII is not defined and is not a privilege, and as such, must generally be produced if it is in a responsive document. *See* Fed. R. Civ. P. 26(b). Furthermore, in the present case, a protective order has been already entered which discovery production. *See* ECF 42. Paragraph 17 specifically authorizes Respondents to produce PII that might would otherwise be prohibited from disclosure under the Privacy Act and no further order is needed from the court. *Id.* at 8-9. Thus, any redactions on Respondents production based on it being PII would be unwarranted and the information is already designated as confidential under the existing protective order.

Respondents produced 57 documents that contain redactions of “personally identifiable information.” Respondents have not defined or explained the scope of what they have redacted as PII, but their table indicates that it includes phone numbers, funding strings, and “Noncitizen’s PII”. After conferring with Petitioner on March 4, 2026, Respondents re-produced several documents where, by mutual agreement, only contained redactions of phone numbers and emails of Respondents’ officers and agents. However, Respondents did not revise the rest of the redactions.

3. Respondents have failed to produce all ordered documents and for the productions made, they have failed to adhere to Fed. R. Civ. P. 34 (b)(1)(E)(i) so that Petitioner is unable to appraise which documents are responsive to each subcategory.

Over the course of two months, Respondents produced 201 documents. Seventy-five of those documents (37%) correspond to category 1 and consist of travel, hotel and car rental invoices and other travel arrangements.

Following Petitioners’ review, the following documents were not produced by Respondents:

- RFP 2 – Partially produced. The request referenced a specific part of the Evidentiary Hearing transcript describing the intelligence received on the specific apartment complex and the owner of the van where MJMA traveled. The specific profile/target package of the owner of the van or the apartment complex are missing.
- RFP 3 – None of the documents specify which sub-category they correspond to.
 - (a) and (e): No documents referring to why Woodburn was “target rich” or “immigration nexus”– ELITE App
 - (b) and (c): No results from the license plate run.
 - (d): No results connecting license plate with “immigration nexus”
- RFP 4 – None of the documents indicate which sub-category of the request they are responsive to and most contain heavy unsubstantiated redactions.

- RFP 5 – Partially produced. Only the emails referring to Petitioner were produced. Petitioner believes the emails referring to the 6 other people from the van, and the rest of the arrestees from Oct 29-31, 2026 are missing.
- RFP 6 – Petitioner understands that, just for Team 7, there was an expectation of 8 arrests a day -which they complied with- and that totals 24 people arrested over 3 days. Respondents only provided redacted information for 15 individuals.
- RFP 7 – Produced information was heavily redacted.
- RFP 9 –None of the production was categorized, the only sub-category that Petitioner can ascertain was produced is (f), corresponding to the pictures from agent JB’s phone.
 - (a) Missing target packages referenced in testimony – produced the profiles from RFP 2, 3 and 4. Agent JB mentioned a list containing more people than the 10 profiles provided.
 - (b) Missing how Woodburn was a target – referencing ELITE app.
 - (c) Same as subcategory (a).
 - (d) Missing protocols to develop target packages - None were provided.
 - (e) Failed to recreate the target list from agent JB that was destroyed or efforts to recover.
 - (g) Missing the results from ELITE app for the Oct 29-31 period. Produce or allow inspection.
 - (h)-(j) Failed to produce. Produce at least the results on the rap sheet and which platform was it obtained from and the immigration history of the owner of the van.
 - (l) Missing the results from Mobile Fortify app for the Oct 29-31 period. Produce or allow inspection.
 - (m) Specific matches for MJMA not produced, only different pictures of MJMA. Not the results from the app. Produce or allow inspection.
 - (n) Failed to produce – there are some spreadsheets produced after AUSAs stated they were having issues with this request in particular, the production seems like search results but unable to tell content as they are completely redacted. Reproduce or allow inspection.
 - (o) –(p) Failed to produce. Produce or allow inspection.
- RFP 10 - the information provided does not match the request regarding issuing post-hoc warrants but Respondents provided redacted emails with instructions on filling out information on a platform (unknown) and email with narrative example. Petitioner is missing the actual instructions to generate the I-200 warrant post-arrest and the instructions provided on how to fill out forms.

For the documents that were not produced, Petitioner requests the court to compel Respondents to produce all missing identified categories, reproduce any destroyed documents, and if this last is not possible, allow Petitioner inspection of the information to cure the prejudice. Fed. R. Civ. P. (e)(1).

Sincerely,

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**Admitted Pro Hac Vice*

EXHIBIT A

Government's Discovery Production Categorization

Bates Stamp	Responsive RFP	Explanation for Redactions
ICE 202	6	
203	6	Noncitizen's PII
204	6	
205	6	
206-207	6	Noncitizen's PII
208-209	6	phone number
210	6	
211	6	
212	6	
213	6	Noncitizen's PII
214-215	6	Noncitizen's PII
216	2, 3, 4, 9	Noncitizen's PII
217	2, 3, 4, 9	Noncitizen's PII
218	2, 3, 4, 9	Noncitizen's PII
219-221	2, 3, 4, 9	Noncitizen's PII
222-224	2, 3, 4, 9	Noncitizen's PII
225-227	2, 3, 4, 9	Noncitizen's PII
228-230	2, 3, 4, 9	Noncitizen's PII
231	2, 3, 4, 9	Noncitizen's PII
232	2, 3, 4, 9	Noncitizen's PII
233	2, 3, 4, 9	Noncitizen's PII
234	10	
235	10	phone number
236	10	
237-241	1	phone number, funding string
242-402	7	
403-557	7	
558-562	1	Phone numbers, funding string
563-564	1	
565-566	1	
567-568	1	
569-574	1	Phone numbers, funding string
575-579	1	Phone numbers, funding string
580-583	1	Phone numbers, funding string
584-586	4, 10	
587	1	
588	1	

Bates Stamp	Responsive RFP	Explanation for Redactions
589	1	
590-593	4, 8	phone number
594-599	1	Phone numbers, funding string
600	1	phone numbers
601	1	phone numbers
602-603	1	phone numbers
604	6	Noncitizen's PII
605	6	
606-607	6	Noncitizen's PII; officer's phone number
608	6	Noncitizen's PII
609	6	
610-611	6	Noncitizen's PII; officer's phone number
612	6	Noncitizen's PII
613	6	
614-615	6	Noncitizen's PII; officer's phone number
616	6	
617	6	Noncitizen's PII
618	6	Noncitizen's PII; officer's phone number
619	6	Noncitizen's PII
620-621	6	Noncitizen's PII; officer's phone number
622	6	Noncitizen's PII
623	6	
624-625	6	Noncitizen's PII; officer's phone number
626	6	Noncitizen's PII
627	6	
628	6	Noncitizen's PII; officer's phone number
629	6	Noncitizen's PII
630-631	6	Noncitizen's PII; officer's phone number
632	6	Noncitizen's PII
633-634	6	Noncitizen's PII; officer's phone number
635-636	6	Noncitizen's PII; officer's phone number
637	6	Noncitizen's PII
638-639	6	Noncitizen's PII; officer's phone number
640	6	Noncitizen's PII; officer's phone number
641	6	Noncitizen's PII
642-643	6	Noncitizen's PII; officer's phone number
644	6	Noncitizen's PII
645-646	6	Noncitizen's PII; officer's phone number

Bates Stamp	Responsive RFP	Explanation for Redactions
647	9	Law enforcement privilege - database screenshot
648	9	Law enforcement privilege - database screenshot
649	9	noncitizens' PII
650	9	
651	9	noncitizens' PII
652	9	noncitizens' PII
653	9	noncitizens' PII
654	9	
655	9	
656	9	
657	9	
658	9	
659	9	
660	9	
661	9	
662	9	
663	9	
664	9	
665	9	
ICE 71-72	5, 6	DO Walker to OPLA - Attorney/client privilege; phone numbers
ICE 73	5, 6	
ICE 74	5, 6	
ICE 75-76	5, 6	
ICE 77	5, 6	
ICE 78	5, 6	
ICE 79-80	10	
ICE 81-82	1	
83	1	
84	1	
85-86	1	
87	1	
88	1	
89-93	1	Phone numbers, funding string
94-96	1	Phone numbers, funding string
97-99	1	Phone numbers
100-103	1	Phone numbers, funding string
104-106	1	Phone numbers, funding string
107	1	phone numbers

Government's Discovery Production Categorization

Bates Stamp	Responsive RFP	Explanation for Redactions
108	1	
109	1	
110	1	
111-113	1	
114-116	1	
117	1	
118-120	1	
121-125	1	Phone numbers, funding string
126-130	1	Phone numbers, funding string
131-133	1	
134-136	1	
137	1	
138-141	1	phone numbers
142-143	1	phone numbers
144	1	
145	1	phone numbers, D.R.'s personal email address
146-148	1	
149	1	phone numbers
150-151	1	
152-153	1	Phone numbers, funding string
154	1	phone numbers
155	1	phone numbers
156-158	1	
159	1	
160-162	1	
163	1	phone numbers
164-166	1	Phone numbers, funding string
167-168	1	phone numbers
169-170	1	phone numbers
171-172	1	phone numbers
173-174	1	phone numbers
175-176	1	phone numbers
177	1	phone numbers
178	1	phone numbers
179-180	1	phone numbers
181-183	1	
184	1	
185	1	
186	1	

Bates Stamp	Responsive RFP	Explanation for Redactions
187	1	
188-190	1	
191	6	Noncitizen's PII
192	6	
193-194	6	Noncitizen's PII
195	6	
196	6	Noncitizen's PII
197	6	Noncitizen's PII
198	6	Noncitizen's PII
199	6	
200	6	Noncitizen's PII
201	6	Noncitizen's PII
CBP-693 - 712	4	LEP - techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and such disclosure could reasonably be expected to risk circumvention of the law
CBP 713-715		noncitizen's PII
CBP-666 - 669	1	LEP - law enforcement techniques about travel
CBP-670 - 673	1	LEP - law enforcement techniques about travel
CBP-674 - 675	1	LEP - law enforcement techniques about travel
CBP-675 - 679	1, 4	LEP - techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and such disclosure could reasonably be expected to risk circumvention of the law
CBP-680 - 683	1	LEP - techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and such disclosure could reasonably be expected to risk circumvention of the law
CBP-684 - 686	1, 4	non responsive officer PII
CBP-687 - 689		LEP - law enforcement techniques about travel
CBP 690	1, 4	
CBP 691-692	1, 4	LEP - techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and such disclosure could reasonably be expected to risk circumvention of the law

Bates Stamp	Responsive RFP	Explanation for Redactions
CBP 744-756	4	LEP - techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and such disclosure could reasonably be expected to risk circumvention of the law
CBP 741-743	1	phone numbers; funding string; LEP about travel techniques
CBP 716	9	
CBP 717	9	
CBP 718	9	
CBP 719	9	
CBP 720	9	
CBP 721	9	
CBP 722	9	
CBP 723	9	
CBP 724	9	
CBP 725 - 732	9	LEP - database queries and identification numbers that disclose techniques for law enforcement investigations
CBP 733 - 740	4	LEP - techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, and such disclosure could reasonably be expected to risk circumvention of the law
ICE_828-29	10	DO to OPLA - Attorney/client privilege; phone numbers; noncitizen's PII
ICE_830	10	phone number
ICE_831-32	10	noncitizens' PII
ICE_833-34	10	noncitizens' PII
ICE_835-38	1	
ICE_839	1	
ICE_840-41	10	noncitizens' PII
ICE_842	6	noncitizen's PII
ICE_843	6	
ICE_844	6	noncitizen's PII
ICE_845	6	
ICE_846	6	noncitizen's PII
ICE_847	6	