

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:21-cv-02443-JSR**

Brennan Center For Justice At New York University School Of
Law v. U.S. Immigration and Customs Enforcement
Assigned to: Judge Jed S. Rakoff
Cause: 05:552 Freedom of Information Act

Date Filed: 03/19/2021
Date Terminated: 11/30/2021
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**Brennan Center For Justice At New
York University School Of Law**

represented by **Nimra Azmi**
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V.

Defendant

**U.S. Immigration and Customs
Enforcement**

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Date Filed	#	Docket Text
03/19/2021	<u>1</u>	COMPLAINT against U.S. Immigration and Customs Enforcement. (Filing Fee \$ 402.00, Receipt Number ANYSDC-24280827) Document filed by Brennan Center For Justice At New York University School Of Law. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B).(Azmi, Nimra) (Entered: 03/19/2021)
03/19/2021	<u>2</u>	CIVIL COVER SHEET filed..(Azmi, Nimra) (Entered: 03/19/2021)
03/19/2021	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) (Entered: 03/19/2021)

03/19/2021	<u>4</u>	FILING ERROR – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Immigration and Customs Enforcement, re: <u>1</u> Complaint,. Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) Modified on 3/22/2021 (jgo). (Entered: 03/19/2021)
03/22/2021		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Jed S. Rakoff. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district–judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf–related–instructions.. (jgo) (Entered: 03/22/2021)
03/22/2021		Magistrate Judge Gabriel W. Gorenstein is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018–06/AO–3.pdf . (jgo) (Entered: 03/22/2021)
03/22/2021		Case Designated ECF. (jgo) (Entered: 03/22/2021)
03/22/2021		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney Nimra H. Azmi to RE–FILE Document No. <u>4</u> Request for Issuance of Summons,. The filing is deficient for the following reason(s): the Court name is not on the PDF;. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (jgo) (Entered: 03/22/2021)
03/22/2021	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Immigration and Customs Enforcement, re: <u>1</u> Complaint,. Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) (Entered: 03/22/2021)
03/23/2021	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to U.S. Immigration and Customs Enforcement..(dnh) (Entered: 03/23/2021)
03/30/2021	<u>7</u>	MOTION for Thomas R. Burke to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–24326553. Motion and supporting papers to be reviewed by Clerk's Office staff. Document filed by Brennan Center For Justice At New York University School Of Law. (Attachments: # <u>1</u> Declaration ISO PHV application, # <u>2</u> Text of Proposed Order).(Burke, Thomas) (Entered: 03/30/2021)
03/30/2021		>>>NOTICE REGARDING PRO HAC VICE MOTION. Regarding Document No. <u>7</u> MOTION for Thomas R. Burke to Appear Pro Hac Vice . Filing fee \$ 200.00, receipt number ANYSDC–24326553. Motion and supporting papers to be reviewed by Clerk's Office staff.. The document has been reviewed and there are no deficiencies. (vba) (Entered: 03/30/2021)
04/01/2021	<u>8</u>	ORDER GRANTING MOTION FOR ADMISSION PRO HAC VICE granting <u>7</u> Motion for Thomas R. Burke to Appear Pro Hac Vice. IT IS HEREBY ORDERED that Applicant is admitted Pro Hac Vice in the above–captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. (Signed by Judge Jed S. Rakoff on 4/1/2021) (va) (Entered: 04/01/2021)
04/01/2021	<u>9</u>	NOTICE OF COURT CONFERENCE: DATE AND PLACE OF CONFERENCE: 4–12–2021, ON A TELECONFERENCE LINE AT 11:15 am. The dial–in information for the call will be as follows: USA Toll–Free (888) 363–4735; USA Caller Paid/International Toll: (215) 446–3657; Access Code: 1086415. Initial Conference set for 4/12/2021 at 11:15 AM before Judge Jed S. Rakoff. (Signed by Judge Jed S. Rakoff on 4/1/2021) (va) (Entered: 04/01/2021)
04/01/2021	<u>10</u>	AFFIDAVIT OF SERVICE of Summons and Complaint,. U.S. Immigration and Customs Enforcement served on 3/29/2021, answer due 4/19/2021. Document filed by Brennan Center For Justice At New York University School Of Law. (Attachments: # <u>1</u> Affidavit of Service, # <u>2</u> Affidavit of Service).(Azmi, Nimra) (Entered: 04/01/2021)

04/05/2021		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 4/5/2021. Courts decision: the parties need not submit a proposed Case Management Plan, but the telephonic Initial Pretrial Conference will proceed as scheduled on April 12, 2021 at 11:15 am using the dial-in information previously posted. (Kotowski, Linda) (Entered: 04/06/2021)
04/06/2021	<u>11</u>	NOTICE OF APPEARANCE by Rebecca Ruth Friedman on behalf of U.S. Immigration and Customs Enforcement..(Friedman, Rebecca) (Entered: 04/06/2021)
04/12/2021		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 4/12/2021. (Kotowski, Linda) (Entered: 04/14/2021)
04/28/2021	<u>12</u>	ANSWER to <u>1</u> Complaint,. Document filed by U.S. Immigration and Customs Enforcement..(Friedman, Rebecca) (Entered: 04/28/2021)
05/11/2021	<u>13</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 4/12/2021 before Judge Jed S. Rakoff. Court Reporter/Transcriber: Rebecca Forman, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/1/2021. Redacted Transcript Deadline set for 6/11/2021. Release of Transcript Restriction set for 8/9/2021..(McGuirk, Kelly) (Entered: 05/11/2021)
05/11/2021	<u>14</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 4/12/21 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days....(McGuirk, Kelly) (Entered: 05/11/2021)
08/13/2021		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference set for 8/17/2021 at 05:00 PM before Judge Jed S. Rakoff.The public may listen by dialing in 888-363-4735 USA toll free, 215-446-3657 international caller paid, access code 1086415. (Kotowski, Linda) (Entered: 08/13/2021)
08/17/2021		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 8/17/2021, (Telephonic Oral Argument set for 10/29/2021 at 04:00 PM before Judge Jed S. Rakoff. The dial in will be 888-363-4735 USA toll free, 215-446-3657 international caller paid, access code 1086415). (Kotowski, Linda) (Entered: 08/18/2021)
09/03/2021	<u>15</u>	MOTION for Summary Judgment . Document filed by U.S. Immigration and Customs Enforcement..(Friedman, Rebecca) (Entered: 09/03/2021)
09/03/2021	<u>16</u>	MEMORANDUM OF LAW in Support re: <u>15</u> MOTION for Summary Judgment . . Document filed by U.S. Immigration and Customs Enforcement..(Friedman, Rebecca) (Entered: 09/03/2021)
09/03/2021	<u>17</u>	DECLARATION of FERNANDO PINEIRO in Support re: <u>15</u> MOTION for Summary Judgment .. Document filed by U.S. Immigration and Customs Enforcement. (Attachments: # <u>1</u> Exhibit Vaughn, # <u>2</u> Exhibit FOIA Request, # <u>3</u> Exhibit Letter, # <u>4</u> Exhibit Letter, # <u>5</u> Exhibit Letter).(Friedman, Rebecca) (Entered: 09/03/2021)
09/27/2021	<u>18</u>	CROSS MOTION for Summary Judgment . Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) (Entered: 09/27/2021)
09/27/2021	<u>19</u>	RULE 56.1 STATEMENT. Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) (Entered: 09/27/2021)
09/27/2021	<u>20</u>	DECLARATION of Mary Pat Dwyer in Support re: <u>18</u> CROSS MOTION for Summary Judgment .. Document filed by Brennan Center For Justice At New York University School Of Law. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C).(Azmi, Nimra) (Entered: 09/27/2021)
09/27/2021	<u>21</u>	DECLARATION of Rachel Levinson-Waldman in Support re: <u>18</u> CROSS MOTION for Summary Judgment .. Document filed by Brennan Center For Justice At New York University School Of Law. (Attachments: # <u>1</u> Exhibit A).(Azmi, Nimra) (Entered: 09/27/2021)

09/27/2021	<u>22</u>	DECLARATION of Nimra H. Azmi in Support re: <u>18</u> CROSS MOTION for Summary Judgment .. Document filed by Brennan Center For Justice At New York University School Of Law. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H).(Azmi, Nimra) (Entered: 09/27/2021)
09/27/2021	<u>23</u>	MEMORANDUM OF LAW in Support re: <u>18</u> CROSS MOTION for Summary Judgment . . Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) (Entered: 09/27/2021)
09/27/2021	<u>24</u>	PROPOSED ORDER. Document filed by Brennan Center For Justice At New York University School Of Law. Related Document Number: <u>18</u> ..(Azmi, Nimra) Proposed Order to be reviewed by Clerk's Office staff. (Entered: 09/27/2021)
09/28/2021		***NOTICE TO COURT REGARDING PROPOSED ORDER. Document No. <u>24</u> Proposed Order was reviewed and approved as to form. (dt) (Entered: 09/28/2021)
10/07/2021		Minute entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 10/7/2021. The Court grants the parties request for a 2–day extension to the deadline for ICE to file its response and for the Brennan Center to file its optional reply brief. The new deadlines are as follows: ICEs response brief is due October 14, 2021; Brennan Centers optional reply brief is due October 21. Telephonic oral argument remains scheduled for October 29, 2021 at 4:00 p.m. and the previously published dial in information is still accurate. (Kotowski, Linda) (Entered: 10/08/2021)
10/14/2021	<u>25</u>	COUNTER STATEMENT TO <u>19</u> Rule 56.1 Statement. Document filed by U.S. Immigration and Customs Enforcement..(Friedman, Rebecca) (Entered: 10/14/2021)
10/14/2021	<u>26</u>	REPLY MEMORANDUM OF LAW in Support re: <u>15</u> MOTION for Summary Judgment . <i>AND IN OPPOSITION TO PLAINTIFFS MOTION FOR SUMMARY JUDGMENT <u>23</u></i> . Document filed by U.S. Immigration and Customs Enforcement..(Friedman, Rebecca) (Entered: 10/14/2021)
10/14/2021	<u>27</u>	DECLARATION of FERNANDO PINEIRO in Support re: <u>15</u> MOTION for Summary Judgment .. Document filed by U.S. Immigration and Customs Enforcement. (Attachments: # <u>1</u> Exhibit Supplemental Vaughn, # <u>2</u> Exhibit FOIA Request).(Friedman, Rebecca) (Entered: 10/14/2021)
10/21/2021	<u>28</u>	REPLY MEMORANDUM OF LAW in Support re: <u>18</u> CROSS MOTION for Summary Judgment . <i>In Opposition to Defendant's Motion for Summary Judgment.</i> Document filed by Brennan Center For Justice At New York University School Of Law..(Azmi, Nimra) (Entered: 10/21/2021)
10/29/2021		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephonic Oral Argument held on 10/29/2021 re: <u>18</u> CROSS MOTION for Summary Judgment . filed by Brennan Center For Justice At New York University School Of Law, <u>15</u> MOTION for Summary Judgment . filed by U.S. Immigration and Customs Enforcement. (Kotowski, Linda) (Entered: 10/29/2021)
11/08/2021	<u>29</u>	DECLARATION of Rebecca R. Friedman in Support re: <u>15</u> MOTION for Summary Judgment .. Document filed by U.S. Immigration and Customs Enforcement. (Attachments: # <u>1</u> Exhibit cover sheet only; submitted in camera).,(Friedman, Rebecca) (Entered: 11/08/2021)
11/08/2021	<u>30</u>	***EX-PARTE*** DECLARATION of Rebecca R. Friedman in Support re: <u>15</u> MOTION for Summary Judgment .. Document filed by U.S. Immigration and Customs Enforcement. (Attachments: # <u>1</u> Exhibit Documents for In Camera Review Filed Under Seal)Motion or Order to File Under Seal: <u>29</u> .(Friedman, Rebecca) (Entered: 11/08/2021)
11/29/2021	<u>31</u>	MEMORANDUM ORDER granting in part and denying in part <u>15</u> Motion for Summary Judgment; granting in part and denying in part <u>18</u> Motion for Summary Judgment. For the reasons set forth above, the Court finds ICE's search was inadequate and, accordingly, orders ICE to conduct a new search based on a liberal reading of Part Two of the request, as clarified by the Brennan Center, and that addresses the inconsistencies and gaps discussed above. The Court also finds that while the redacted portions of Sections 7. 2, 7. 4, 11. 3, and 11. 4 are appropriately withheld under FOIA Exemption 7 (E), the redacted portions of Sections 7.18, 11.6, 12.1, 12.2, 12.4, 12.5,

		and 12.7 are not appropriately withheld under 7(E) and must be disclosed. Accordingly, the Court grants partial summary judgment in favor of the Brennan Center, on the grounds that ICE's search was inadequate and that Sections 7.18, 11.6, 12.1, 12.2, 12.4, 12.5, and 12.7 of the NSI Handbook were not properly withheld under FOIA Exemption 7(E); and grants partial summary judgment in favor of ICE, on the ground that Sections 7.2, 7.4, 11.3, and 11.4 were properly withheld under FOIA Exemption 7(E). The Clerk is directed to close the entries at docket numbers 15 and 18 and close the case. SO ORDERED. (Signed by Judge Jed S. Rakoff on 11/29/2021) (mml) (Entered: 11/29/2021)
11/29/2021		Transmission to Orders and Judgments Clerk. Transmitted re: <u>31</u> Order on Motion for Summary Judgment to the Orders and Judgments Clerk. (mml) (Entered: 11/29/2021)
11/30/2021	<u>32</u>	CLERK'S JUDGMENT re: <u>31</u> Order on Motion for Summary Judgment, in favor of Brennan Center For Justice At New York University School Of Law against U.S. Immigration and Customs Enforcement, in favor of U.S. Immigration and Customs Enforcement against Brennan Center For Justice At New York University School Of Law. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Memorandum and Order dated November 29, 2021, the Court finds ICE's search was inadequate and, accordingly, orders ICE to conduct a new search based on a liberal reading of Part Two of the request, as clarified by the Brennan Center, and that addresses the inconsistencies and gaps discussed above. The Court also finds that while the redacted portions of Sections 7. 2, 7. 4, 11. 3, and 11. 4 are appropriately withheld under FOIA Exemption 7 (E), the redacted portions of Sections 7.18, 11.6, 12.1, 12.2, 12.4, 12.5, and 12.7 are not appropriately withheld under 7(E) and must be disclosed. Accordingly, the Court grants partial summary judgment in favor of the Brennan Center, on the grounds that ICE's search was inadequate and that Sections 7.18, 11.6, 12.1, 12.2, 12.4, 12.5, and 12.7 of the NSI Handbook were not properly withheld under FOIA Exemption 7(E); and grants partial summary judgment in favor of ICE, on the ground that Sections 7.2, 7.4, 11.3, and 11.4 were properly withheld under FOIA Exemption 7(E). (Signed by Clerk of Court Ruby Krajick on 11/30/2021) (Attachments: # <u>1</u> Notice of Right to Appeal) (dt) (Entered: 11/30/2021)
11/30/2021		Terminate Transcript Deadlines (dt) (Entered: 11/30/2021)