

1 MELINDA HAAG (CABN 132612)
2 United States Attorney
3 ALEX G. TSE (CABN 152348)
4 Chief, Civil Division
5 JENNIFER S WANG (CSBN 233155)
6 Assistant United States Attorney

7 450 Golden Gate Avenue, Box 36055
8 San Francisco, California 94102-3495
9 Telephone: (415) 436-6967
10 FAX: (415) 436-6748
11 jennifer.s.wang@usdoj.gov

12 Attorneys for Federal Defendant

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

16 CAITLIN KELLY HENRY and JESSE
17 STOUT,

18 Plaintiffs,

19 v.

20 UNITED STATES DEPARTMENT OF
21 JUSTICE,

22 Defendant.

23) Civil Action No. C13-5924 DMR

24) **SUPPLEMENTAL DECLARATION OF**
25) **ANDREA VENETIAN IN SUPPORT OF**
26) **FEDERAL DEFENDANT’S MOTION FOR**
27) **SUMMARY JUDGMENT**

28) Date: January 22, 2015

) Time: 11:00 a.m.

) Place: Courtroom 4 - 3rd Floor

) Hon. Donna M. Rvu

- 20 1. I am a Freedom of Information Act (“FOIA”) and Privacy Act (“PA”) point of contact for the Civil
21 and Criminal Division of the United States Attorney’s Office for the Western District of New York
22 (“USAO/NYW” or “District”). In this capacity, I serve as a liaison to the FOIA/PA Staff of the
23 Executive Office for United States Attorneys (“EOUSA”) in Washington, D.C., which processes and
24 responds to FOIA/PA requests located in the USAO/NYW.
25
26 2. My duties include receiving and reviewing requests made pursuant to FOIA, 5 U.S.C. § 552, and/or
27 the PA, 5 U.S.C. § 552a, for records maintained by, or located in the USAO/NYW. I am responsible
28 for the searches conducted by the USAO/NYW for records responsive to FOIA/PA requests.

- 1 3. The statements I make in this supplemental declaration are made on the basis of my review of the
2 official files and records of the USAO/NYW, my own personal knowledge, or on the basis of
3 knowledge acquired by me through the performance of my official duties.
- 4 4. As discussed in my declaration dated September 24, 2014, "Declaration of Andrea Venetian In
5 Support of Federal Defendant's Motion for Summary Judgment" (hereinafter, "First Venetian
6 Declaration"), I am familiar with the FOIA/PA request submitted by plaintiff, Caitlin Henry, dated
7 May 1, 2013, and assigned Request No. 2013-1993, and with the searches conducted by the
8 USAO/NYW for records responsive to Ms. Henry's request.
- 9 5. Cases and matters opened in the USAO/NYW are assigned a USAO number. The USAO/NYW
10 maintains paper case and matter files, identified by USAO number; there is no electronic means to
11 search these paper files.
- 12 6. As discussed in the First Venetian Declaration, to search for records responsive to Ms. Henry's
13 FOIA/PA request, I used the Legal Information Office Network Systems ("LIONS"), a system used
14 by the USAO/NYW to track cases and matters in the District. LIONS does not store electronically
15 the actual documents from USAO/NYW cases and matters. As a first step, I used LIONS to
16 determine if there is a case/matter in the USAO/NYW involving Ms. Henry.
- 17 7. When I conducted a search of LIONS, I did so by entering the names that were provided to me on
18 Ms. Henry's FOIA request in a search of the "participants" field. The name variations that I used
19 were provided in the First Venetian Declaration at paragraph 7. As described in the First Venetian
20 Declaration, I also entered "Jesse Stout," which based on Ms. Henry's FOIA request appeared to be
21 the name of Ms. Henry's attorney, in a participant search on LIONS.
- 22 8. In LIONS, a "participant" may include litigants, subjects of investigation, witnesses, victims, and
23 other individuals, organization, or business associated with the case or matter. For example,
24
25
26
27
28

1 “participant” may include, in a matter involving use of investigative techniques such as an
2 application for a pen register or search warrant, the individual whose phone or property is at issue.

3 9. The “participant” search returns all the cases/matters opened in which the individual whose name I
4 enter into the search has been listed as a “participant.” Those results will include, among other
5 information, the USAO number for the case/matter, Assistant United States Attorney (“AUSA”)
6 assigned, case caption, and the status of the case, *i.e.*, whether the case/matter is active or closed.
7 Closed files for the District are stored at the Federal Records Center.
8

9 10. The District uses LIONS to track cases at the Federal Records Center. If LIONS identifies a
10 case/matter as closed, I use the USAO number assigned to that case/matter to locate and retrieve
11 case files at the Federal Records Center.

12 11. In her FOIA/PA request, Ms. Henry provided her name and other personal identifying information,
13 which allowed me to conduct searches of the “participant” field. By entering Ms. Henry’s and Mr.
14 Stout’s names in a “participant” search in LIONS, I would have been able see if there were any
15 cases/matters that were opened in the District that related to Ms. Henry or Mr. Stout. Specifically,
16 by entering these names in this field, I would be able to see if there was a single case, or multiple
17 cases that related to either individual. Also, this type of search allowed me to see what role, if any,
18 Ms. Henry or Mr. Stout had regarding a case that was filed, investigated, or prosecuted in the
19 District. As discussed in the First Venetian Declaration, my searches did not return any results.
20

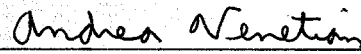
21 12. A “participant” search allowed me to obtain broader results than a LIONS query for a specific case
22 caption or case number. Those searches would only have allowed me to find information regarding
23 the specific case queried. Moreover, Ms. Henry did not provide a specific case caption or number in
24 her FOIA/PA request.
25
26
27
28

1 13. On or about December 2 and 4, 2014, to further confirm my search results, I performed a
2 “participant” search of all the “associated key words” listed in Ms. Henry’s FOIA request. *See* First
3 Venetian Decl. Ex. B. Those searches did not return any results.

4
5 14. Although an AUSA may enter notes about the status of a particular case/matter to which the AUSA
6 is assigned in “comments” fields on LIONS, use of these fields is discretionary. These fields are
7 often unused, and even if an AUSA opts to use the field, the type of status information that the
8 AUSA chooses to include is discretionary.

9 15. For the reasons described above and in the First Venetian Declaration, in the absence of a specific
10 case name or case number provided by Ms. Henry, a LIONS “participant” search using Ms. Henry’s
11 name was the most comprehensive method available to determine whether there was a case/matter in
12 the USAO/NYW involving Ms. Henry since the early 1990s, when the District transitioned to
13 LIONS. If the “participant” searches I ran had returned any results, those results would have
14 included the USAO number and the assigned AUSA, allowing the USAO/NYW to locate the
15 corresponding paper case file.
16

17 I declare under the penalty of perjury that the foregoing is true and correct, to the best of my knowledge
18 and belief. Executed this 5th day of December, 2014.

19
20 
21 _____
22 ANDREA VENETIAN
23 Records Coordinator
24 USAO/NYW
25
26
27
28