

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

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In the Matter of

RONALD CASTORINA, JR. and NICOLE MALLIOTAKIS,

Petitioners,

-against-

BILL DE BLASIO, in his official capacity as Mayor of the City of New York, THE OFFICE OF THE MAYOR OF THE CITY OF NEW YORK, MELISSA MARK-VIVERITO, in her official capacity as the Speaker of the New York City Council, STEVEN BANKS, Commissioner of the New York City Human Resources Administration/Department of Social Services, in his official capacity, MATTHEW BRUNE, Chief Operating Officer of the New York City Human Resources Administration/Department of Social Services, in his official capacity, and RICARDO BROWN, Executive Deputy Commissioner, Management Information Systems, Human Resources Administration/Department of Social Services, in his official capacity,

Respondents,

For a Judgment Pursuant to Article 78 of the Civil Practice Law and Rules.

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JACQUELINE B. LIBSTER, an attorney admitted to practice before the Courts

of the State of New York, affirms pursuant to Rule 2106 of the Civil Practice Law and Rules:

1. I am Senior Counsel in the Electronic Discovery Group in the office of Zachary W. Carter, Corporation Counsel of the City of New York (the "Law Department"). In this capacity, I advise on preservation, collection, review, and production of electronically-stored information. I have advised on numerous cases that involved the collection, review, and production of large quantities of electronically-stored documents. I submit this affirmation in support of the respondents' Answer in this case.

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(Minardo, J.)

**AFFIRMATION OF
JACQUELINE B. LIBSTER
IN SUPPORT OF
RESPONDENTS' ANSWER**

2. In December 2016, I was asked to investigate the cost, time, and process that would be involved in redacting and producing the documents requested in the petitioners' Freedom of Information Law requests at issue in this proceeding—specifically, the proof-of-identity and proof-of-residency documents submitted by IDNYC applicants to the Human Resources Administration (“HRA”) from January 2015 through December 2016 in support of their applications (the “IDNYC Supporting Documents”). To that end, I have engaged in numerous conversations with HRA, with other members of the Law Department’s Electronic Discovery Group, and with several nationally recognized electronic discovery service providers. The information set forth below is based on my personal experience and knowledge, as well as these conversations.

3. The IDNYC database contains approximately 1,900,000 electronically-scanned IDNYC Supporting Documents submitted by applicants, many of which are multi-page documents, including but not limited to documents (such as New York State Driver’s licenses) where the front and back were scanned separately. The 1,900,000 IDNYC Supporting Documents total more than 3,000,000 pages.

4. The 1,900,000 IDNYC Supporting Documents include a wide variety of document types. The IDNYC program regulations, at 68 R.C.N.Y. §§ 6-04 through 6-06, list approximately ninety different types of supporting documents that are accepted to prove identity or residency. The IDNYC Supporting Documents also include a significant number of documents in foreign languages.

5. I have been informed that the 1,900,000 IDNYC Supporting Documents, if produced, would have to be redacted to remove all personally-identifying information and any other exempt information.

6. I explored the possibility of using automated redaction technology to accomplish these redactions, but have determined that these documents are not suitable for automated redactions due to various factors, including: (i) the wide variety of document types and non-uniform scanning positions, which prevents the use of “form” automatic redactions; and (ii) the diversity of information that would require redaction coupled with the lack of reliable readable text, which prevents the use of “pattern recognition” automatic redactions.

7. Accordingly, reviewing, redacting, and producing the 1,900,000 IDNYC Supporting Documents would require performing a first-level review and redaction of the documents, with a second-level quality control review. Adding to the complexity of the review and redaction process, any foreign-language documents would need to be identified, routed to the appropriate foreign-language-capable reviewer, redacted, and then placed in the quality control workflow.

8. When estimating document redaction rates, it is standard practice in the electronic discovery industry to consider various factors, including but not limited to, the types of documents being reviewed, the types of redactions being performed, and the volume of redactions. After taking into account all of these factors, and based on both industry standards and the Electronic Discovery Group’s and my own experiences with large-volume document redaction reviews, I estimate that the first-level redaction rate for redacting the IDNYC Supporting Documents would be approximately 15 documents per hour. Based on that estimate,

the first-level review would require more than 125,000 person hours to complete (i.e. 1,900,000 documents divided by 15 documents per hour = 126,667 hours).

9. After first-level review is completed, a minimum of 25% of the documents should be second-level reviewed for quality control purposes. Based on industry standards, and the Electronic Discovery Group's and my own experience with large-volume document redaction reviews, I estimate that the second-level review rate would be approximately 30 documents per hour. Based on that estimate, the second-level review would require more than 15,000 person hours to complete (i.e. 25% of 1,900,000 documents = 475,000 documents, divided by 30 documents per hour = 15,833 hours).

10. Accordingly, I estimate that it would take more than 140,000 hours of first-level and second-level reviewer time to redact the 1,900,000 IDNYC Supporting Documents.

11. The Law Department's contractually-specified rate for first-level reviewers based in the New York City area is \$45 per hour, and its contractually-specified rate for second-level reviewers based in the New York City area is \$50 per hour.

12. Accordingly, redacting the 1,900,000 IDNYC Supporting Documents would cost approximately \$6,375,000 for the first-level and second-level review (i.e., 125,000 first-level reviewer hours at \$45 per hour = \$5,625,000; 15,000 second-level reviewer hours at \$50 per hour = \$750,000; \$5,625,000 + \$750,000 = \$6,375,000).

13. In addition to the 140,000 hours and \$6,375,000 cost for first-level and second-level review estimated above, redacting and producing the 1,900,000 IDNYC Supporting Documents would require significant additional time and expense for services including, but not limited to, project management at review sites by the vendor, oversight and review by Law Department

attorneys, data uploading and hosting costs, software licensing fees, data exporting and production costs, and additional expenses for foreign language document reviewers.

Dated: New York, New York
February 1, 2017



JACQUELINE B. LIBSTER