

# EXHIBIT H

**Natasha Merle**

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**From:** Wolfe, Kristina (CIV) <Kristina.Wolfe@usdoj.gov>  
**Sent:** Thursday, October 26, 2017 5:31 PM  
**To:** Natasha Merle; Samuel Spital; Shapiro, Elizabeth (CIV); Federighi, Carol (CIV); Borson, Joseph (CIV)  
**Cc:** Andrea Senteno; Joanna Cuevas Ingram; Rachel Kleinman  
**Subject:** RE: LDF v. Trump meeting

Natasha,

Thank you again for your patience in awaiting our response.

You are mischaracterizing our position as a refusal to "meet-and-confer." We are conferring with you about discovery and have conveyed to you our position that development of a discovery plan would be premature until the Court rules on the dispositive motion we will be filing. Our failure to agree with you as to the need for a discovery plan at this point is not a refusal to meet-and-confer but rather a failure of that process to reach agreement because of your insistence on a position that is clearly at odds with the Court's recent scheduling order and circumvents the procedural rules' intent that any such discovery plan, or at least the need therefore, be presented to the Court at the earliest opportunity, which you declined to do at the conference two weeks ago. Please present this statement to the Court if you go ahead with filing a pre-motion letter.

Best regards,  
Kristina

-----Original Message-----

**From:** Wolfe, Kristina (CIV)  
**Sent:** Thursday, October 26, 2017 3:53 PM  
**To:** 'Natasha Merle' <nmerle@naacpldf.org>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Federighi, Carol (CIV) <CFederig@CIV.USDOJ.GOV>; Borson, Joseph (CIV) <jborson@CIV.USDOJ.GOV>  
**Cc:** Andrea Senteno <asenteno@MALDEF.org>; Joanna Cuevas Ingram <jcuevas@latinojustice.org>; Rachel Kleinman <rkleinman@naacpldf.org>  
**Subject:** RE: LDF v. Trump meeting

Natasha,

I am in receipt of your email but need to touch base with my supervisor, who is out of the office today, before providing a response. I hope to be in a position to respond to your email by COB today.

Thank you in advance for your understanding.

Best,  
Kristina

-----Original Message-----

From: Natasha Merle [mailto:nmerle@naacpldf.org]  
Sent: Thursday, October 26, 2017 1:24 PM  
To: Wolfe, Kristina (CIV) <krwolfe@CIV.USDOJ.GOV>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Federighi, Carol (CIV) <CFederig@CIV.USDOJ.GOV>; Borson, Joseph (CIV) <jborson@CIV.USDOJ.GOV>  
Cc: Andrea Senteno <asenteno@MALDEF.org>; Joanna Cuevas Ingram <jcuevas@latinojustice.org>; Rachel Kleinman <rkleinman@naacpldf.org>  
Subject: RE: LDF v. Trump meeting

Kristina,

Given Defendants' position, Plaintiffs intend to file a letter requesting a pre-motion conference on our anticipated motion to compel a 26(f) conference today. From your email correspondence, we understand Defendants to be refusing to meet and confer regarding a 26(f) discovery plan. However, if you would like to meet please let us know if you are available today.

Thanks

-----Original Message-----

From: Wolfe, Kristina (CIV) [mailto:Kristina.Wolfe@usdoj.gov]  
Sent: Wednesday, October 25, 2017 4:26 PM  
To: Natasha Merle <nmerle@naacpldf.org>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <Elizabeth.Shapiro@usdoj.gov>; Federighi, Carol (CIV) <Carol.Federighi@usdoj.gov>; Borson, Joseph (CIV) <Joseph.Borson@usdoj.gov>  
Cc: Andrea Senteno <asenteno@MALDEF.org>; Joanna Cuevas Ingram <jcuevas@latinojustice.org>  
Subject: RE: LDF v. Trump meeting

Natasha,

As we explained below, defendants do not believe a Rule 26(f) conference is either appropriate or required at this time. Defendants' forthcoming motion to dismiss will present threshold jurisdictional issues and assert that the complaint fails to state a claim for which relief may be granted. Resolution of these issues will, if the case is not disposed of in its entirety, necessarily inform the scope of discovery and thus the parties' views with respect to a proposed discovery plan. Further, the Court's October 16, 2017, scheduling order, which was entered after the pre-motion conference at which the Court specifically asked the parties if there were additional issues that needed to be addressed, does not require nor contemplate that the parties will submit a discovery plan before the Court rules on the defendants' forthcoming dispositive motion. At this juncture, we view the Court's scheduling order as controlling the proceedings through the dispositive motion phase. We are, however, happy to discuss any non-discovery related issues if you believe such a discussion would be productive.

Best regards,  
Kristina

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Kristina A. Wolfe  
Trial Attorney, U.S. Department of Justice Civil Division, Federal Programs Branch  
20 Massachusetts Ave. NW | Washington, DC 20530 p 202-353-4519 | f 202-616-8470 Kristina.Wolfe@usdoj.gov

-----Original Message-----

From: Natasha Merle [mailto:nmerle@naacpldf.org]  
Sent: Tuesday, October 24, 2017 10:28 AM

To: Wolfe, Kristina (CIV) <krwolfe@CIV.USDOJ.GOV>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Federighi, Carol (CIV) <CFederig@CIV.USDOJ.GOV>; Borson, Joseph (CIV) <jborson@CIV.USDOJ.GOV>  
Cc: Andrea Senteno <asenteno@MALDEF.org>; Joanna Cuevas Ingram <jcuevas@latinojustice.org>  
Subject: RE: LDF v. Trump meeting

Kristina,

Thank you for your response. Can you please confirm whether defendants are indeed refusing to participate in a 26(f) conference to attempt to agree upon a discovery plan "as soon as practicable" as required by the rules.

Thanks,  
Natasha

-----Original Message-----

From: Wolfe, Kristina (CIV) [mailto:Kristina.Wolfe@usdoj.gov]  
Sent: Tuesday, October 17, 2017 3:30 PM  
To: Natasha Merle <nmerle@naacpldf.org>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <Elizabeth.Shapiro@usdoj.gov>; Federighi, Carol (CIV) <Carol.Federighi@usdoj.gov>; Borson, Joseph (CIV) <Joseph.Borson@usdoj.gov>  
Cc: Andrea Senteno <asenteno@MALDEF.org>  
Subject: RE: LDF v. Trump meeting

Natasha,

Thank you for your email. The defendants' position remains unchanged--discovery is not appropriate at this time. At the pre-motion conference held last Friday, the Court acknowledged that the defendants' forthcoming motion to dismiss will present threshold jurisdictional issues that must be resolved before the case may move forward. Indeed, the Court's questions were primarily focused on the issue of standing and, after hearing from both parties, the Court granted plaintiffs leave to file a second amended complaint to address the concerns raised by both defendants and the Court regarding the sufficiency of plaintiffs' allegations of injury. In discussing a schedule for moving forward, neither the Court nor plaintiffs, despite being given the opportunity to do so, raised the issue of discovery. The Court's October 16, 2017, Order setting a deadline for plaintiffs to submit their second amended complaint and a briefing schedule for defendants' anticipated motion to dismiss confirms that the Court wants to resolve the threshold jurisdictional issues before moving forward with the merits of the case. Once the Court has ruled on defendants' motion to dismiss and the parties have clarity with respect to what issues, if any, remain in the case, we can schedule a time to discuss a discovery plan.

Best regards,  
Kristina

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Kristina A. Wolfe  
Trial Attorney, U.S. Department of Justice Civil Division, Federal Programs Branch  
20 Massachusetts Ave. NW | Washington, DC 20530 p 202-353-4519 | f 202-616-8470 Kristina.Wolfe@usdoj.gov

-----Original Message-----

From: Natasha Merle [mailto:nmerle@naacpldf.org]  
Sent: Monday, October 16, 2017 5:40 PM

To: Wolfe, Kristina (CIV) <krwolfe@CIV.USDOJ.GOV>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <EShapiro@CIV.USDOJ.GOV>; Federighi, Carol (CIV) <CFederig@CIV.USDOJ.GOV>; Borson, Joseph (CIV) <jborson@CIV.USDOJ.GOV>  
Cc: Andrea Senteno <asenteno@MALDEF.org>  
Subject: RE: LDF v. Trump meeting

Thank you, Kristina. Given that a pending motion to dismiss is not an automatic ground for a stay of discovery, our position is that the parties should move forward with discussing discovery pursuant to FRCP 26(f). *Mirra v. Jordan*, No. 15CV4100AT (KNF), 2016 WL 889559, at \*2-3 (SDNY Mar. 1, 2016). We are happy to discuss the timing and breadth of the discovery further by phone this week. Please let us know when you are available.

Natasha

-----Original Message-----

From: Wolfe, Kristina (CIV) [mailto:Kristina.Wolfe@usdoj.gov]  
Sent: Friday, October 13, 2017 1:54 PM  
To: Natasha Merle <nmerle@naacpldf.org>; Samuel Spital <SSpital@naacpldf.org>; Shapiro, Elizabeth (CIV) <Elizabeth.Shapiro@usdoj.gov>; Federighi, Carol (CIV) <Carol.Federighi@usdoj.gov>; Borson, Joseph (CIV) <Joseph.Borson@usdoj.gov>  
Cc: Andrea Senteno <asenteno@MALDEF.org>  
Subject: Re: LDF v. Trump meeting

Ms. Merle,

Thank you for your email. Our position is that discovery is not appropriate during the pendency of our forthcoming motion to dismiss. See *Boelter v. Hearst Communications, Inc.*, 2016 WL 361554 (SDNY Jan. 28, 2016), at \*4-5. We are happy to address this issue during the motion conference this afternoon.

Best regards,  
Kristina

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Natasha Merle <nmerle@naacpldf.org>  
Date: 10/13/17 12:00 PM (GMT-05:00)  
To: Samuel Spital <SSpital@naacpldf.org>, "Shapiro, Elizabeth (CIV)" <EShapiro@CIV.USDOJ.GOV>, "Federighi, Carol (CIV)" <CFederig@CIV.USDOJ.GOV>, "Wolfe, Kristina (CIV)" <krwolfe@CIV.USDOJ.GOV>, "Borson, Joseph (CIV)" <jborson@CIV.USDOJ.GOV>  
Cc: Andrea Senteno <asenteno@MALDEF.org>  
Subject: LDF v. Trump meeting

Good afternoon,

I hope you are well. Are you available to meet today at 2:30pm at the Thurgood Marshall courthouse to discuss a discovery schedule?

Thanks,  
Natasha