

September 19, 2018

The Honorable Jesse M. Furman
United States District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: Plaintiffs' letter-motion for leave to conduct discovery and depose non-party Mark Neuman in *State of New York, et al. v. U.S. Dep't of Commerce, et al.*, 18-CV-2921 (JMF).

Dear Judge Furman,

Pursuant to Rule 2(C) of this Court's Individual Rules and Practices, Plaintiffs seek leave to conduct limited document discovery and a deposition of non-party Mark Neuman. Defendants do not consent to Plaintiffs' request, and Plaintiffs have been unable to resolve this dispute through good faith meet-and-confer efforts.

The Court's July 3 order limited discovery to the Department of Commerce and Department of Justice, absent agreement of the Defendants or leave of Court. *See* July 3, 2018 Hearing Tr. at 86. However, the Court permitted Plaintiffs to seek leave to take discovery from third parties if "necessary or appropriate." *Id.* Because senior Commerce Department leadership (and apparently Justice Department staff as well, as described below) consulted Mr. Neuman as a key external advisor on legal and policy aspects of the citizenship question, and because the substance of those non-privileged consultations is largely not memorialized in the record, Plaintiffs believe his deposition is both necessary and appropriate.

1. Mr. Neuman is (to Plaintiffs' knowledge) currently employed by the retailer L. Brands, Inc. Ex. 1. He served on the transition team for the Department of Commerce from late 2016 to early 2017; previously chaired the Census Bureau's National Advisory Committee; and also previously worked in the Census Bureau's Congressional Affairs Office. Ex. 2; Cannon Decl. ¶ 16, Docket No. 254.

Throughout 2017 and 2018, in his capacity as a private citizen, Mr. Neuman served as a frequent external advisor to senior Commerce Department officials – and apparently the Justice Department as well – on the citizenship question. For example:

- On April 13, 2017, Earl Comstock emailed Mr. Neuman to ask him when the Census Bureau was required to notify Congress regarding the decennial census questions. Ex. 3. Mr. Comstock also testified that he consulted with Mr. Neuman more than a dozen times by telephone and in person, including on the citizenship question. Ex. 1.
- On May 2, 2017, in response to Secretary Ross's email saying he was "mystified why nothing have been done in response to my months old request that we include the citizenship question," Chief of Staff Wendy Teramoto responded: "I continue to talk frequently with Marc Neumann. . . Do you want me to set up another meeting?" Ex. 4.

- On September 8, 2017, one day after being notified that the Secretary wanted “an update on progress . . . regarding the citizenship question,” James Uthmeier (a Commerce Department political appointee then working as Senior Counsel to the General Counsel) emailed Mr. Neuman to request a phone call. Mr. Uthmeier stated: “I am working on some Census legal questions for the Secretary and Peter Davidson, our new GC, and they asked me to reach out to you about some research that I have been doing.” Ex. 5.
- On October 8, 2017, in response to an email from Secretary Ross with the subject line “Letter from DoJ” and asking “What is its status?,” Commerce Department General Counsel Peter Davidson responded “I’m on the phone with Mark Neumann right now...he is giving me a readout of his meeting last week. I can give you an update via phone if you’d like...” Ex. 6. The Secretary responded “Please call me.” *Id.*
- Secretary Ross discussed the citizenship question with Mr. Neuman as part of the Secretary’s “stakeholder outreach”¹ in March 2018, Ex. 7; and the Secretary appears to have met with Mr. Neuman on the citizenship question in the period before May 2017 as well, *see* Ex. 4, in meetings not memorialized in the record.

The record therefore reflects that Mr. Neuman was an advisor on the citizenship question to the Secretary, the Chief of Staff (Teramoto), the director of the policy office (Comstock), the General Counsel (Davidson), and the General Counsel’s Senior Counsel (Uthmeier). Ex. 3; Ex. 4; Ex. 5; Ex. 6; Ex. 7. Defendants have in fact acknowledged that “the record reflects Department employees consulted [Mr. Neuman] on various Census matters.” Cannon Decl. ¶ 16. In addition, the email exchange between Secretary Ross and General Counsel Davidson strongly suggests that Neuman conferred with unnamed Justice Department officials on the citizenship question. Ex. 6. Mr. Neuman is not a government employee and no privileges attach to any of these consultations.²

2. Applying the Court’s standard for authorizing third-party discovery in this case, Mr. Neuman’s deposition is “necessary or appropriate” given the circumstances. The Second Circuit authorizes extra-record discovery where, among other factors, it may be “necessary to determine the reasons for the agency’s choice.” *Nat’l Audubon Soc’y v. Hoffman*, 132 F.3d 7, 14 (2d Cir. 1997); *accord Pub. Power Council v. Johnson*, 674 F.2d 791, 794 (9th Cir. 1982). As evidenced by his frequent consultations with senior staff on the citizenship question, Mr. Neuman was a key participant in developing the reasons for the agency’s choice here. Many of these consultations were telephonic or in person, and the witnesses who have already been deposed testified that they do not recall the substance or details of those interactions. Ex. 1; Ex. 8. And although Mr. Neuman conferred with other Commerce Department employees whose

¹ As Plaintiffs have previously noted, Mr. Neuman’s meeting with Secretary Ross in March 2018 appears to be the only such “stakeholder” meeting that was never memorialized with a file memo included in the administrative record. Docket No. 237 at 3. Defendants represented in response to Plaintiffs’ previous motion that Mr. Neuman’s input was not memorialized for the administrative record because he “was not seen as an external stakeholder” and “did not represent a particular constituency,” and because he provided a slide presentation that was elsewhere included in the record. Cannon Decl. ¶ 16.

² Defendants originally withheld several communications between Mr. Neuman and Mr. Uthmeier on attorney-client privilege grounds before later withdrawing those privilege claims in response to Plaintiffs’ objections and a motion to compel. Docket No. 237 at 3 n.3; Docket No. 236-4; Docket No. 220-1.

depositions have not been taken in this case (including Secretary Ross, Mr. Davidson, and Mr. Uthmeier), discovering this information from Mr. Neuman is warranted both because it is more efficient to seek this information from one source rather than many, and because of the Court's presumptive limit on the number of fact depositions in this case.

Mr. Neuman's deposition is also "appropriate" under the Court's standard. Although the Court recently denied Plaintiffs' request to depose third-party Kris Kobach, the factors the Court cited in doing so weigh in favor of allowing Plaintiffs to depose Mr. Neuman. *See* Docket No. 303. Mr. Neuman is not just "one of many people outside the Commerce Department who communicated with Secretary Ross about the citizenship question," *id.*; but is instead someone whose input Defendants solicited on multiple occasions and through multiple, senior points of contact. Cannon Decl. ¶ 16; Ex. 3; Ex. 4; Ex. 5; Ex. 6; Ex. 7. Nor is the substance of Mr. Neuman's views "already reflected in the record," Docket No. 303; to the contrary, although the record contains some information from Mr. Neuman – including a presentation submitted at his March 2018 meeting with the Secretary, which Defendants have represented the Secretary did not consider, *see* Cannon Decl. ¶ 16 – most interactions with Mr. Neuman are not memorialized anywhere and appear to have been conducted by phone or in person.³ Ex. 4; Ex. 5; Ex. 6. Finally, although the Court did not cite this consideration in denying Plaintiffs' earlier request for a third-party deposition, Mr. Neuman is not – unlike Secretary Kobach – a high-ranking official in another state who is generally subject to the "exceptional circumstances" test. *See Fish v. Kobach*, 320 F.R.D. 566, 579 (D. Kan. 2017).

Mr. Neuman's involvement in the process of adding the citizenship question appears to relate to central factual and legal issues in this case. Plaintiffs respectfully request that the Court authorize Plaintiffs to seek a Rule 45 deposition of and limited document discovery from Mr. Neuman.

Respectfully submitted,

BARBARA D. UNDERWOOD

Attorney General of the State of New York

By: /s/ Matthew Colangelo

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³ Standing alone, Defendants' conspicuous decision not to memorialize Mr. Neuman's input from the March 2018 stakeholder meeting in the same form as all other stakeholder meetings weighs in favor of authorizing Mr. Neuman's deposition to, at minimum, allow the Court to review "the full administrative record that was before the Secretary at the time he made his decision." *Citizens to Pres. Overton Park v. Volpe*, 401 U.S. 402, 420 (1971); *see* 5 U.S.C. § 706 (in evaluating agency action, "the court shall review the whole record").

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EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK IMMIGRATION COALITION, ET AL.,

Plaintiffs,

vs. Case No. 1:18-CF-05025-JMF

UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,

Defendants.

Washington, D.C.

Thursday, August 30, 2018

Deposition of:

EARL COMSTOCK

called for oral examination by counsel for
Plaintiffs, pursuant to notice, at the office of
Arnold & Porter, 601 Massachusetts Avenue NW,
Washington, D.C., before KAREN LYNN JORGENSEN,
RPR, CSR, CCR of Capital Reporting Company,
beginning at 9:08 a.m., when were present on
behalf of the respective parties:

1 P R O C E E D I N G S

2 WHEREUPON,

3 VIDEOGRAPHER: Good morning. We are
4 going on the record at 9:01 a.m. on Thursday,
5 August 30, 2018. Please note that the microphones
6 are sensitive and may pick up whispering, private
7 conversations and cellular interference. Please
8 turn off all cell phones or place them away from
9 the microphones, as that can interfere with the
10 deposition audio. Audio and video recording will
11 continue to take place unless all parties agree to
12 going off the record.

13 This is Media Unit 1 of the video
14 recorded deposition of Earl Comstock to be taken
15 by counsel for the plaintiff in the matter of the
16 New York Immigration Coalition, et al., v. The
17 United States Department of Commerce, et al. This
18 case is filed in the United States District Court
19 for the Southern District of New York. This
20 deposition is being held at the law office of
21 Arnold & Porter located at 601 Massachusetts Avenue
22 Northwest, Washington, D.C. 20001.

1 My name is Dan Reidy from the firm
2 Veritext Legal Solutions, and I am the
3 videographer. The court reporter is Karen
4 Jorgenson from Veritext Legal Solutions.

5 I am not authorized to administer an
6 oath. I am not related to any party in this
7 action, nor am I financially interested in the
8 outcome.

9 Also, counsel appearances will be noted
10 on the stenographic report rather than orally at
11 this time.

12 Will the court reporter please swear in
13 the witness?

14 EARL COMSTOCK,
15 called as a witness, and having been first duly
16 sworn, was examined and testified as follows:

17 THE WITNESS: I do.

18 EXAMINATION BY MR. COLANGELO:

19 Q Please state your name and work address.

20 A Earl Comstock, U.S. Department of
21 Commerce.

22 Q And we met a minute ago, but for the

1 earlier."

2 Do you see that?

3 A I see that.

4 Q Okay. That was the call on April 5th
5 that we were just talking about, right?

6 MR. GARDNER: Objection. Lack of
7 foundation. Calls for speculation.

8 THE WITNESS: Doesn't specify when the
9 phone call took place.

10 BY MR. COLANGELO:

11 Q And did Wendy tell you she got this email
12 from Kris Kobach in July of 2017?

13 A No.

14 Q You've never spoken to Wendy about
15 Kris Kobach, at all?

16 A Not that I recall.

17 Q Is there anyone else that you're aware of
18 that Steven Bannon directed the Secretary to talk
19 to about the census, other than Kris Kobach?

20 MR. GARDNER: Objection. Lack of
21 foundation.

22 THE WITNESS: I have no knowledge of any

1 conversations with Steven Bannon, so I wouldn't
2 know who he might have suggested the Secretary
3 talk to.

4 BY MR. COLANGELO:

5 Q Have you ever spoken to Steven Bannon
6 yourself?

7 A I have never spoken to Steven Bannon
8 myself.

9 MR. COLANGELO: Can we have this marked
10 Exhibit 8?

11 (Plaintiffs' Exhibit 8, Email, was
12 marked.)

13 BY MR. COLANGELO:

14 Q This is document stamped 3709.

15 A Uh-huh.

16 Q Do you have Exhibit 8 in front of you?

17 A Uh-huh.

18 Q Who's Mark Neuman?

19 A Mark Neuman is a former -- I think he was
20 formally chair of a census advisory committee, and
21 he was a member of the transition -- I don't know
22 which aspect of transition but, basically,

1 advising on census.

2 Q How long have you known Mark Neuman?

3 A I think I met Mark Neuman probably in
4 December or January of either December 2016 or
5 January 2017. I don't recall which.

6 Q And did you meet him in your capacity as
7 the confirmation Sherpa?

8 A Yes.

9 Q Did you discuss any Commerce Department
10 policy matters with him during the transition?

11 A Not that I recall.

12 Q Did you discuss any Census Bureau policy
13 matters with him during the transition?

14 A We discussed -- I mean, he basically
15 briefed the Secretary on the Census operation,
16 some of the challenges they face, the whole issue
17 of hard-to-count populations, the challenges you
18 face hiring temporary workers, concerns about the
19 budget, whether they're properly funded. Those
20 were the primary discussion points.

21 Q Where does Mr. Newman work right now?

22 A He is a senior VP at -- I don't know the

1 name of the organization, but I know they own
2 Victoria's Secret.

3 Q He's not a government employee right now?

4 A No.

5 Q Okay. How often do you speak with him?

6 A I last saw him several months ago when we
7 ran into each other at a party.

8 Q And over the course of your time at the
9 Commerce Department, how often have you spoken
10 with him?

11 A Maybe a dozen times.

12 Q By telephone?

13 A Yep.

14 Q Have you ever met with him in person?

15 A I have met with him in person.

16 Q How many times?

17 A I think he briefed the Secretary maybe
18 two times, three times that I can recall, and he
19 had me over for dinner one time at his house to
20 meet a potential chief of staff of the
21 Census Bureau.

22 Q What did he brief the Secretary on?

1 A Again, the whole operation of the Census,
2 background on it. It's an area I was not familiar
3 with, and he was one of the folks on the
4 transition who was familiar with the Census.

5 Q Have you been present for briefings he
6 gave the Secretary on the citizenship question?

7 A I've been present -- did we cover
8 citizenship? He covered citizenship at one of the
9 briefings.

10 Q When was that?

11 A I couldn't tell you the date.

12 Q What did he say about citizenship in the
13 briefing that you attended with him?

14 A We talked about how citizenship could
15 be -- what would it be useful for and in terms of
16 a government agency. So the Voting Rights Act
17 enforcement, that's what the ACS data has provided
18 to the Justice Department.

19 Q When was that briefing?

20 A Again, sometime -- sometime in the
21 spring. I can't -- couldn't tell you exactly
22 when.

1 Q Is Mr. Neuman a lawyer?

2 A Good question. I don't know.

3 Q Does Mr. Neuman have a voting rights
4 background?

5 A I couldn't tell you.

6 Q Take a look at Exhibit 8, which is an
7 email from you to Mr. Neuman at the bottom of the
8 page dated April 13, 2017. Do you see that?

9 A Uh-huh.

10 Q And the email says, "Hi, Mark. Quick
11 question. When does Census need to notify
12 Congress regarding the questions that will be on,
13 A, the ACS and, B, the decennial census?"

14 A Correct.

15 Q Why were you asking Mark this question?

16 A Likely because Mark would know the
17 answer.

18 Q Why didn't you ask the Office of General
19 Counsel?

20 A Because at the time, there was nobody in
21 the Office of General Counsel that I
22 would -- would have been familiar with.

1 Q I'm not sure I understand what you mean
2 by nobody in the Office of General Counsel that
3 you would have been familiar with.

4 A Well, there was nobody in the Office of
5 General Counsel that I was -- had easy access to
6 that works on census issues.

7 Q You're the director of the office policy
8 in the Office of the Secretary?

9 A Correct.

10 Q Okay. But you didn't think you could ask
11 the General Counsel's office this question at the
12 time?

13 A Well, if you note the date, the time of
14 this email, it's 9:58 p.m.

15 Q Uh-huh.

16 A I'm trying to get an answer. And I'm
17 pretty certain there's going to be nobody in the
18 Office of General Counsel at 9:58 p.m.

19 Q Did you need an answer that night?

20 A I usually try to get answers as quickly
21 as I can, yes.

22 Q Why were you asking this question?

1 A Probably because it was on my list of
2 things to do, and I was working, trying to get
3 those things done.

4 Q And how did it come to be on your list of
5 things to do?

6 A Well, I may have been -- again, the
7 Secretary might have asked me about when do we
8 need to get questions, when do we need to notify
9 the Congress?

10 Q Okay. So you asked Mr. Neuman this
11 question in order to respond to a question from
12 the Secretary?

13 A I don't know the genesis because I didn't
14 say in the email why I need the information.

15 Q Why didn't you ask the Census Bureau this
16 question?

17 A Because in April, I probably had no
18 contracts over at the Census Bureau.

19 Q By April 13th of 2017, had you already
20 discussed the citizenship question with
21 Mr. Neuman?

22 A I have no idea.

1 Q Take a look at Mr. Neuman's reply to your
2 email. This is at the top of Exhibit 8. He says,
3 "I believe that the annual notification to the
4 Congressional committee relating to the
5 questionnaire content additions for 2020 census
6 just take place."

7 And then do you see in the second
8 paragraph he says, "There will be another
9 opportunity next year"?

10 A Right.

11 Q What does Mr. Neuman mean by opportunity?

12 MR. GARDNER: Objection. Calls for
13 speculation.

14 THE WITNESS: Again, if you notice the
15 rest of his statement that you didn't read, plenty
16 of questions relating to sexual orientation. So
17 we were focused on the issue of what was going to
18 be included in the questions. More precisely,
19 what was not going to be added.

20 The prior administration had wanted to
21 add, I might note, to the decennial census a
22 question on sexual orientation and gender

1 identity. So for all the people that are raising
2 an uproar right now about the addition of this
3 question, apparently there was no concern about
4 adding such a question on another sensitive topic
5 last year.

6 So leaving that aside, I think he is
7 simply pointing out to the extent there's -- we
8 have some questions we'd like to see added, there
9 will be an opportunity next year.

10 BY MR. COLANGELO:

11 Q So had you talked to Mr. Neuman about a
12 question you'd like to see added?

13 A I don't recall.

14 Q Okay. But the sexual orientation and
15 gender identity question was not included as a
16 topic, right?

17 A Correct.

18 Q And that was because you came to the
19 policy position you did not want to ask that
20 question, correct?

21 A That was the administration's conclusion,
22 yes.

1 Q So Mr. Neuman can't have been talking
2 about the opportunity to put that question back on
3 that you had just decided not to have included,
4 right?

5 A That would be speculation. I don't know
6 what he's referring to.

7 Q Okay. But you did testify he was
8 referring to the opportunity to put a question on?

9 A He was noting that there would be another
10 opportunity to place a question, should somebody
11 decide to do that next year.

12 Q And then the next paragraph of his email
13 says, "I recommend that you ask the Bureau to
14 provide a list of their response rates on all
15 demographic questions currently asked on the ACS.
16 You will see whether certain demographic questions
17 have lower response rates than others, especially
18 among certain demographic groups. That is
19 something that can be provided off the shelf."

20 A Yes.

21 Q Why is he recommending that you ask that
22 information from the Bureau?

1 MR. GARDNER: Objection. Calls for
2 speculation.

3 THE WITNESS: Again, to the extent we
4 were discussing the possibility of adding the
5 citizenship question, that would be a logical
6 question to ask.

7 BY MR. COLANGELO:

8 Q When did you first discuss the
9 possibility of adding a citizenship question with
10 Mr. Newman?

11 A Again, for the umpteenth time, I don't
12 recall the exact date.

13 Q But you agree that based on this email
14 exchange, that you had already had that
15 conversation before April 14th of 2017?

16 A Again, I have -- I don't recall when we
17 first discussed it. It's entirely possible.

18 Q Not just possible, but likely, right?
19 Why else would Mr. Newman be talking about the
20 opportunity to add a question?

21 MR. GARDNER: Objection. Calls for
22 speculation.

1 THE WITNESS: Again, if we were
2 considering changing the questions, it would be
3 important to know.

4 BY MR. COLANGELO:

5 Q And if you're considering adding a
6 citizenship question, it would also be important
7 to know the response rates on all demographic
8 questions; is that right?

9 A That would be one of the questions you
10 would ask, yes.

11 Q Okay. Did the Secretary discuss the
12 citizenship question with Mr. Newman in the spring
13 of 2017?

14 A You'd have to ask the Secretary.

15 MR. GARDNER: Objection. Lack of
16 foundation.

17 BY MR. COLANGELO:

18 Q I'm sorry. You were both speaking at the
19 same time.

20 MR. GARDNER: Objection. Lack of
21 foundation.

22 BY MR. COLANGELO:

1 Q And now please answer.

2 A I would say you'd have to ask the
3 Secretary.

4 Q Did he ever tell you that he spoke with
5 Mr. Newman about the citizenship question?

6 A I'm fairly certain he was -- he did talk
7 to him at some point.

8 Q Okay. When was that?

9 A I couldn't tell you.

10 Q Did Mr. Newman ever say to you that he
11 had spoken to the Secretary about adding a
12 citizenship question?

13 A It's possible, yeah.

14 Q Okay. When did he tell you?

15 A Again, I don't recall the exact date.

16 Q Try to place it, roughly.

17 A To your question, was there discussion of
18 the possibility of adding a citizenship question
19 in the spring? Yes. That does not mean any firm
20 decision had been made. We were exploring the
21 opportunity.

22 Q I'm not asking you about decisions. I'm

1 just asking when the Secretary spoke to
2 Mr. Newman.

3 A Again, I keep telling you I don't know
4 the exact dates he spoke to him.

5 Q Okay.

6 A I know he did speak to Mr. Newman. I
7 don't know the exact dates.

8 Q And I'm not sure I got an answer, but
9 forgive me if I did.

10 When did Mr. Newman tell you that he had
11 spoken to the Secretary about this citizenship
12 question?

13 A Again, I do not recall the exact dates of
14 conversations.

15 Q Okay.

16 A If you don't have an email that specifies
17 it, I can't tell you the date.

18 Q All right. Did you ask the Census Bureau
19 to give you the information that Mr. Newman
20 suggested in this email?

21 A Possibly. I don't recall.

22 In the decision memo we have such

1 * * * * *

2 CERTIFICATE OF REPORTER

3 I, KAREN LYNN JORGENSEN, RPR, CSR, CCR the
4 officer before whom the foregoing deposition was
5 taken, do hereby certify that the witness whose
6 testimony appears in the foregoing deposition was
7 duly sworn by me; that the testimony of said
8 witness was taken by me in stenotype and
9 thereafter reduced to typewriting under my
10 direction; that the said deposition is a true
11 record of the testimony given by said witness;
12 that I am neither counsel for, related to, nor
13 employed by any of the parties to the action in
14 which this deposition was taken; and further, that
15 I am not a relative or employee of any counsel or
16 attorney employed by the parties hereto, nor
17 financially or otherwise interested in the outcome
18 of this action.



19 -----
20 KAREN LYNN JORGENSEN, RPR, CCR, CSR

21 Dated this 3rd day
22 of September , 2018.

EXHIBIT 2

[
DOCVARIABLE
MonthStart
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MAT]

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DOCVARIABLE
LE

MonthStart

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MERGEFOR

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Title

Subtitle

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
[IF DocVariable MonthStart \@ dddd = "Sunday" 1 ""]	[IF DocVariable MonthStart \@ dddd = "Monday" 1 IF =A2 <> 0 =A2+1 ""]	[IF DocVariable MonthStart \@ dddd = "Tuesday" 1 IF =B2 <> 0 =B2+1 ""]	[IF DocVariable MonthStart \@ dddd = "Wednesday" 1 IF =C2 <> 0 =C2+1 ""]	[IF DocVariable MonthStart \@ dddd = "Thursday" 1 IF =D2 <> 0 =D2+1 ""]	[IF DocVariable MonthStart \@ dddd = "Friday" 1 IF =E2 <> 0 =E2+1 ""]	[IF DocVariable MonthStart \@ dddd = "Saturday" 1 IF =F2 <> 0 =F2+1 ""]
[=G2+1]	[=A4+1]	[=B4+1]	[=C4+1] 1 hr 10:15am – 11:15am	[=D4+1]	[=E4+1] TBD	[=F4+1]
[=G4+1]	[=A6+1]	[=B6+1] 2 hrs 9:30 am – 10:30 am 11:30 am – 12:30	[=C6+1]	[=D6+1] 1 hr 3:15 pm – 4:15 pm	[=E6+1]	[=F6+1]
[=G6+1]	[=A8+1]	[=B8+1]	[=C8+1]	[=D8+1]	[=E8+1]	[=F8+1]
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MEMBERS OF CONGRESS (OLIA)

These are current Members of Congress are interested in the 2020 Census. Those with an * are Members who have requested to speak with you on this matter.

1. *Sen. Brian Schatz (HI) (main office: 202-224-3934) – signed a letter (*Spoke w/ Secretary 2/28*)
2. *Sen. Tom Carper (DE) (main office: 202-224-2441) – signed a letter
3. *Rep. Carolyn Maloney (NY-12) (main office: 202-225-7944) – signed a letter
4. *Rep. Gerry Connolly (VA-11) (main office: 202-225-1492)
5. Rep. Bob Goodlatte (VA-6) (main office: 202-225-5431) – signed a letter
6. Sen. Ted Cruz (TX) (main office: 202-224-5922) – signed a letter
7. Sen. Tom Cotton (AR) (main office: 202-224-2353) – signed a letter
8. Sen. Ron Johnson (WI) (main office: 202-224-5323)

STATE and LOCAL OFFICIALS (OLIA)

The {#} contacts below represent various state and local governments, they may have insights concerning public participation based on their demographic profiles of their communities and will also be able to speak to the importance of accurate census counts for federal funding and public planning for their jurisdictions.

1. John Giles, Mayor, Mesa, AZ (main office: 480-644-2388), Chief of Staff, Ian Linssen [REDACTED] – signed a letter to you on this issue
2. Jim Hood, Mississippi Attorney General (main office: 601-359-3680) – signed a letter
3. Tom Miller, Iowa Attorney General (main office: 515-281-5164) – signed a letter
4. Mitch Landrieu, Mayor, New Orleans, LA (main office: 504-658-4000) – as President of the U.S. Conference of mayors he is an important voice to hear
5. Jeff Landry, Louisiana Attorney General (main office: 225-326-6705) – signed a letter
6. Paul LePage, Governor of Maine (scheduler: [REDACTED])
7. NACo – Exec Board on 3/6

STAKEHOLDERS (Census)

The list includes a range of stakeholders representing minority communities, researchers, and Census Bureau partners.

1. Arturo Vargas, Executive Director, National Association of Latino Elected and Appointed Officials ([REDACTED]) – stakeholder representing an affected community
2. Vanita Gupta, President & CEO, The Leadership Conference on Civil and Human Rights ([REDACTED]) – active stakeholder representing an affected community
3. Dr. Steven Camarota, Center for Immigration Studies ([REDACTED]) – stakeholder studying related issues relating to immigration
4. Kay Cole James, CEO, Heritage Foundation ([REDACTED]) – organization likely has an opinion on the issue to share
5. Ditas Katague, Chair, Census National Advisory Committee ([REDACTED]) – stakeholder representing an affected community

BUSINESSES (DOC)

The four business and industry association contacts below represent super-users of census data which inform their business operations or those of their stakeholders, including the use of census data to target certain demographics. They may have insights to share on the issue.

1. Dan Lowry, Senior Vice President, Government and Public Affairs, Neilson [REDACTED]
2. David French, Senior Vice President, Government Relations, National Retail Federation ([REDACTED])
3. Dan Roehl, Vice President, Government Relations, National Restaurant Association ([REDACTED])
4. Tyler McIntosh, Federal Legislative Manager, International Council of Shopping Centers ([REDACTED])
5. American Medical Association – Todd Askew
6. American Hospital Association – Eric Rasmussen
7. AHIP – Jeremy Allen/Marilyn Tavenner
8. National Grocers Association – Greg Ferrara (Connolly)/Margaret Lyons (King)
9. California Fresh Fruit Association
10. Ocean Spray Cranberries
11. National Cattlemen's Beef Association
12. National Pork Producers Council
13. **The National Association of Home Builders**
14. **Associated General Contractors**

FORMER CENSUS BUREAU OFFICIALS (Census)

These former Census Bureau officials range from Directors appointed by Presidents George W. Bush and Barack Obama, as well as former Deputy Director, to the former Associate Director for Decennial Programs, who presided over the 2010 Census.

1. Steven H. Murdock, Former Director, 2008-2009 [REDACTED]
2. Robert M. Groves, Former Director, 2009-2012 [REDACTED]
3. Hermann Habermann, Former Deputy Director, 2002-2006 [REDACTED]
4. Arnold "AJ" Jackson, Former Associate Director for Decennial Programs, 2008-2012 [REDACTED]
5. Bruce Chapman, Former Director, 1981-1983 ([REDACTED])
6. A. Mark Neuman, Former, Chair National Advisory Committee ([REDACTED]) – stakeholder with unique perspective on decennial census operations from his tenure as the chief of the Congressional Affairs Office at the Census Bureau during the 1990 Census

EXHIBIT 3

From: A M Neuman [REDACTED]
Sent: 4/14/2017 3:41:31 AM
To: Comstock, Earl (Federal) [REDACTED]
Subject: Re: Census Questiion

I believe that the annual notification to Congressional committee relating to questionnaire content additions for 2020 Census just took place. (Which is why there were a few articles about the lack of planned questions relating to sexual orientation).
Let me double-check on that.

There will be another opportunity next year.

I recommend that you ask the Bureau to provide a list of the response rates on ALL demographic questions currently asked on the ACS. You will see whether certain demographic questions have lower response rates than others -- especially among certain demographic groups. That is something that can be provided OFF THE SHELF.

A. Mark Neuman

> On Apr 13, 2017, at 9:58 PM, Comstock, Earl (Federal) <[REDACTED]> wrote:
>
> Hi Mark -- quick question. When does Census need to notify Congress regarding the questions that will be on (A) the ACS and (B) the decennial Census?
>
> Thanks. Earl
>
> Sent from my iPhone

EXHIBIT 4

From: Wilbur Ross [REDACTED]
Sent: 5/2/2017 2:23:38 PM
To: Teramoto, Wendy (Federal) [REDACTED]
Subject: Re: Census

Let's try to stick him in there for a few days to fact find. W

Sent from my iPhone

On May 2, 2017, at 7:17 AM, Teramoto, Wendy (Federal) <[REDACTED]> wrote:
I continue to talk frequently with Marc Neumann and we often have dinner together. He will not leave les but is in love with the census and talks about it non stop. [REDACTED] Do you want me to set up another meeting? [REDACTED]
[REDACTED] Let me know if you want to have a drink or get together with him over the weekend.
Wendy

Sent from my iPhone

Begin forwarded message:

From: "Alexander, Brooke (Federal)" [REDACTED]
Date: May 2, 2017 at 7:10:21 AM PDT
To: "Teramoto, Wendy (Federal)" <[REDACTED]>
Subject: FW: Census

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

From: Wilbur Ross [REDACTED]
Sent: Tuesday, May 02, 2017 10:04 AM
To: Comstock, Earl (Federal) <[REDACTED]>; Herbst, Ellen (Federal) <[REDACTED]>
Subject: Census

[REDACTED]

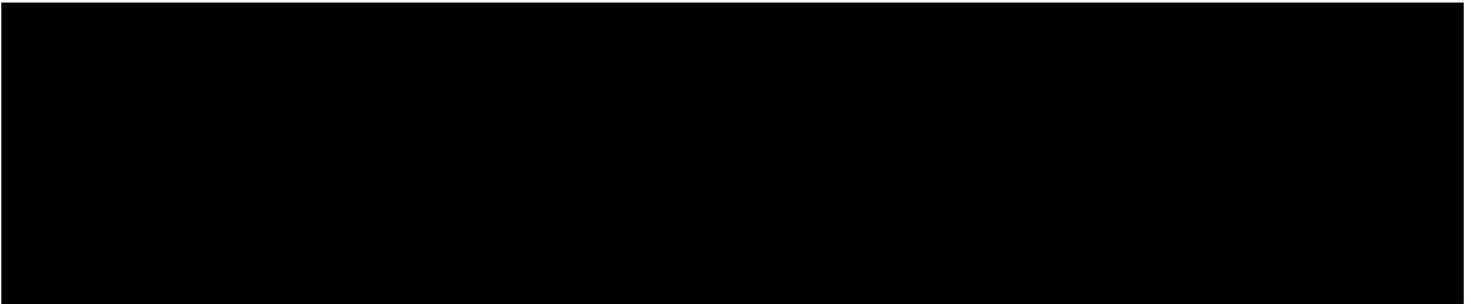
Worst of all they emphasize that they have settled with congress on the questions to be asked. I am mystified why nothing have been done in response to my months old request that we include the citizenship question. Why not? [REDACTED]

[REDACTED]

EXHIBIT 5

From: JUthmeier@doc.gov [PII]
Sent: 9/7/2017 8:58:18 PM
To: Comstock, Earl (Federal) [PII]
CC: Davidson, Peter (Federal) [PII]
Subject: Re: Census Matter Follow-Up

Hi Earl-



James

On Sep 7, 2017, at 4:53 PM, Comstock, Earl (Federal) <[PII]> wrote:
Hi Peter and James –

As I discussed with James a little while ago, the Secretary would like an update on progress since the discussion yesterday regarding the citizenship question.

If we could get a short email or memo today that would be great.

Thanks. Earl

From: [REDACTED]
Sent: 9/13/2017 8:33:27 PM
To: A M Neuman [REDACTED]
Subject: Re: Questions re Census

Mark,

Thanks again for the discussion and helpful information.

Regards,
James

On Sep 13, 2017, at 1:21 PM, A M Neuman [REDACTED] wrote:
Note to James Uthmeier

From: A Mark Neuman

Subject: Census 2020

James -- I appreciate our discussions about the 2020 Census preparations.

As we discussed, I have extensive experience in strategies to effectively count hard to count populations (including Spanish-and other non-English speaking populations, Asian and other immigrant populations, as well as American Indians living on Reservations). I continue to encourage the Commerce/Census team to evaluate plans to eliminate the black-white differential undercount and ensure that we count every person living in America one time and at the correct address.

I happen to have two brothers (both US Citizens) who speak and read ONLY Spanish, so I am especially sensitive to the need to make an extra effort to reach the Latino community and encourage full participation in the 2020 Census.

As we discussed, I have unique qualifications and experience in the Census Field:

I worked, in different capacities, in the past three Decennial Censuses -- 1990, 2000, & 2010.

I advised previous Secretaries of Commerce on Census issues, (including Secretary Mosbacher, Secretary Daley, Secretary Evans and Secretary Ross).

I worked on the Census Executive Staff during a Decennial Census, and worked closely with 7 different Directors of the Census.

I advised and worked with most of the stakeholders in the Decennial Census: The Bureau, the Department, Congressional oversight and Appropriations Committees, GAO, NAS, the Census Advisory Committees, and numerous other stakeholders.

On Sep 13, 2017, at 12:19 PM, Uthmeier, James (Federal) <[REDACTED]> wrote:

Hey Mark—just following up on this, sorry for not getting back to you sooner. Any chance you are free to chat soon today? Would be much appreciated. My cell is [REDACTED]

From: Uthmeier, James (Federal)

Sent: Friday, September 08, 2017 8:46 AM

To: [REDACTED]

Subject: Questions re Census

Hi Mark,

I am working on some Census legal questions for the Secretary and Peter Davidson, our new GC, and they asked me to reach out to you about some research that I have been doing. Any chance you might have a few minutes this morning to discuss? I'm available all morning at the number below, or happy to give you a call whenever convenient.

Thank you,

James

James W. Uthmeier
Senior Counsel to the General Counsel
Regulatory Reform Officer
Department of Commerce
[REDACTED]

EXHIBIT 6

From: [REDACTED]@doc.gov [REDACTED]@doc.gov]
Sent: 10/8/2017 10:54:41 PM
To: Wilbur Ross [REDACTED]
Subject: Re: Letter from DoJ.

Will do...wrapping up my call now.

Sent from my iPhone

> On Oct 8, 2017, at 6:51 PM, Wilbur Ross <[REDACTED]> wrote:

>

> Please call me at [REDACTED] WLR

>

> Sent from my iPad

>

>> On Oct 8, 2017, at 6:47 PM, Davidson, Peter (Federal) <[REDACTED]@doc.gov> wrote:

>>

>> I'm on the phone with Mark Neumann right now...he is giving me a readout of his meeting last week. I can give you an update via phone if you'd like...

>>

>> Sent from my iPhone

>>

>>> On Oct 8, 2017, at 2:56 PM, Wilbur Ross <[REDACTED]> wrote:

>>>

>>> What is its status? WLR

>>>

>>> Sent from my iPad

EXHIBIT 7

From: Semsar, Joseph (Federal) [REDACTED]
Sent: 3/22/2018 5:17:59 PM
To: Leach, Macie (Federal) [REDACTED]; Lenihan, Brian (Federal) [REDACTED]; Kelley, Karen (Federal) [REDACTED]; Park-Su, Sahra (Federal) [REDACTED]; Walsh, Michael (Federal) [REDACTED]; O'Connor, Kasey (Federal) [REDACTED]; Platt, Mike (Federal) [REDACTED]; Jones, Christa D [christa.d.jones@census.gov]; Teramoto, Wendy (Federal) [REDACTED]; Uthmeier, James (Federal) [REDACTED]
CC: Neuhaus, Chelsey (Federal) [REDACTED]
Subject: RE: This Afternoon's Stakeholder Calls

Hi all,

We need to move the two business calls scheduled for 2pm today to tomorrow afternoon between 1:30pm and 2:30pm. The Secretary will meet with Mark Neuman in-person this afternoon between 2:30pm and 3:15pm.

KDK, we'll be sure to dial you into the Mark Neuman meeting, and I'll let you know when I have better visibility into when that meeting will occur.

Thanks,

Joe

Joe Semsar

Senior Advisor

U.S. Department of Commerce | Office of the Under Secretary of Economic Affairs

(202) 482-[REDACTED] (o) | j[REDACTED] | [REDACTED] (c)



From: Semsar, Joseph (Federal)
Sent: Thursday, March 22, 2018 11:43 AM
To: Leach, Macie (Federal) [REDACTED]; Lenihan, Brian (Federal) [REDACTED]; Kelley, Karen (Federal) [REDACTED]; Park-Su, Sahra (Federal) [REDACTED]; Walsh, Michael (Federal) [REDACTED]; O'Connor, Kasey (Federal) [REDACTED]; Platt, Mike (Federal) [REDACTED]; Jones, Christa D [christa.d.jones@census.gov]
Cc: Neuhaus, Chelsey (Federal) [REDACTED]
Subject: This Afternoon's Stakeholder Calls

Hi all,

See attached briefing memos for this afternoon's stakeholder calls. We plan to do two business contact calls, and then an in-person with Mark Neuman. The table below lays out a tentative schedule. KDK will be dialed-in for all calls.



Thanks,

Joe

Time	Meeting	Context	Confirmed	Phone Number	Point of Contact
2:00pm – 2:10pm	Call with Christine Pierce	Chief Demographer, Nielson	Yes	[REDACTED]	Brian Lenihan
2:10pm – 2:20pm	Call with Liz Holland, Christopher Gerlach, and Tyler McIntosh	International Council of Shopping Centers	Yes	Meeting Dial-In	Brian Lenihan
2:20pm – 2:30pm	In-Person with Mark Neuman	Former Chair, National Advisory Committee	Yes	In-Person	Mike Walsh

Joe Semsar

Senior Advisor

U.S. Department of Commerce | Office of the Under Secretary of Economic Affairs

(202) 482-[REDACTED] (o) | [REDACTED] | [REDACTED] (c)



From: Semsar, Joseph (Federal) [REDACTED]@doc.gov]
Sent: 3/22/2018 3:43:16 PM
To: Leach, Macie (Federal) [REDACTED]@doc.gov]; Lenihan, Brian (Federal) [REDACTED]@doc.gov]; Kelley, Karen (Federal) [REDACTED]@doc.gov]; Park-Su, Sahra (Federal) [REDACTED]@doc.gov]; Walsh, Michael (Federal) [REDACTED]@doc.gov]; O'Connor, Kasey (Federal) [REDACTED]@doc.gov]; Platt, Mike (Federal) [REDACTED]@doc.gov]; Jones, Christa D [christa.d.jones@census.gov]
CC: Neuhaus, Chelsey (Federal) [CNeuhaus@doc.gov]
Subject: This Afternoon's Stakeholder Calls
Attachments: SWR Call - Neilsen 3-22-18.docx; SWR Call - ICSC 3-22-18.docx; SWR Call - Neuman 3-22-18.docx

Hi all,

See attached briefing memos for this afternoon's stakeholder calls. We plan to do two business contact calls, and then an in-person with Mark Neuman. The table below lays out a tentative schedule. KDK will be dialed-in for all calls.

Participant Code: [REDACTED]

Leader Code: [REDACTED]

Thanks,

Joe

Time	Meeting	Context	Confirmed	Phone Number	Point of Contact
2:00pm – 2:10pm	Call with Christine Pierce	Chief Demographer, Nielson	Yes	[REDACTED]	Brian Lenihan
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2:20pm – 2:30pm	In-Person with Mark Neuman	Former Chair, National Advisory Committee	Yes	In-Person	Mike Walsh

Joe Semsar

Senior Advisor

U.S. Department of Commerce | Office of the Under Secretary of Economic Affairs

(202) 482-[REDACTED] | [REDACTED]@doc.gov | [REDACTED](c)



From: Semsar, Joseph (Federal) [REDACTED]
Sent: 3/22/2018 6:23:44 PM
To: Kelley, Karen (Federal) [REDACTED]
Subject: Mark Neuman - Briefing
Attachments: SWR Call - Neuman 3-22-18.docx

I have already sent this to Macie, but I'll ensure that everyone in the room has a hard copy. -Joe

Joe Semsar

Senior Advisor

U.S. Department of Commerce | Office of the Under Secretary of Economic Affairs
[REDACTED]



For Internal Use Only

CALL AGENDA FOR SECRETARY ROSS

DATE & TIME: March 15, 2018; 3:15pm – 4:15pm

PLACE: Secretary's Suite

3:15 pm Rep. Gerald “Gerry” Connolly (D-VA)

He will call-in

3:25 pm Steven H. Murdock, PhD

Former Census Director, 2008-2009
[REDACTED]

3:35 pm Mayor Ron Nirenberg,

San Antonio, TX
[REDACTED]

3:40 pm Robert M. Groves, PhD

Former Census Director, 2009-2012
[REDACTED]

3:50pm Bruce Chapman

Former Census Director, 1981-1983
[REDACTED]

4:00pm Arnold Jackson

Former Associate Director, Decennial Programs, 2008-2012
[REDACTED]

4:10 pm Hermann Habermann

Former Deputy Director and COO of Census, 2002-2006
[REDACTED]

4:20 pm A. Mark Neuman

Former Chair, National Advisory Committee
[REDACTED]

For Internal Use Only

Cc: Katherine Dodson Hancher (CENSUS/DEPDIR FED)[Katherine.Dodson.Hancher@census.gov]
To: Ron S Jarmin (CENSUS/ADEP FED)[Ron.S.Jarmin@census.gov]
From: A Mark Neuman
Sent: Wed 3/14/2018 10:06:09 PM
Importance: Normal
Subject: Re: Meeting request from Secretary Ross
Received: Wed 3/14/2018 10:06:31 PM

Thanks for your message.

To discuss a sensitive policy matter such as the one you describe, I would prefer to do a meeting in person rather than on the phone. I am in Washington and available to come to him at that time.

Thank you. A. M. Neuman

Sent from my iPhone

On Mar 14, 2018, at 5:57 PM, Ron S Jarmin (CENSUS/ADEP FED) <Ron.S.Jarmin@census.gov> wrote:

Mark,

Good afternoon,

I'm reaching out to you on behalf of Secretary of Commerce Wilbur Ross. As you are aware, on December 18, 2017, the U.S. Department of Justice sent a letter to the U.S. Census Bureau requesting to reinstate the citizenship question on the 2020 Census questionnaire. The Commerce Department is required by law to submit the proposed final list of questions to Congress by March 31, 2018, therefore Secretary Ross would like to take the opportunity to hear first-hand stakeholder views on this matter before any decision is made.

Given your interest and your past leadership at the Census Bureau, we would like to recommend that Secretary Ross talk with you, so we are hoping you would be available for brief phone call from the Secretary tomorrow, Thursday , March 15th during the hour from 3:15 – 4:15 PM. If this is not convenient, we will try to seek another time, schedule permitting.

Thank you.

Ron Jarmin, PhD.

Performing the Non-Exclusive Functions and Duties of the Director

U.S. Census Bureau

Office 301.763.1858, Ron.S.Jarmin@census.gov

[census.gov](https://www.census.gov) Connect with us on [Social Media](#)

EXHIBIT 8

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Case No. 1:18-CF-05025-JMF

4 -----x
5 NEW YORK IMMIGRATION COALITION, ET AL.,

6 Plaintiffs,

7
8 - against -
9

10 UNITED STATES DEPARTMENT OF COMMERCE,
11 ET AL.,

12 Defendants.
13 -----x

14 August 24, 2018
15 9:07 a.m.

16 Videotaped Deposition of WENDY
17 TERAMOTO, taken by Plaintiffs, pursuant to
18 Notice, held at the offices of Arnold &
19 Porter Kaye Scholer LLP, 250 West 55th
20 Street, New York, New York, before Todd
21 DeSimone, a Registered Professional
22 Reporter and Notary Public of the State of
23 New York.

24 VERITEXT LEGAL SOLUTIONS
25 MID-ATLANTIC REGION
1250 Eye Street NW - Suite 350
Washington, D.C. 20005

1 THE VIDEOGRAPHER: Good morning.
2 We are going on the record at 9:07 a.m. on
3 August 24th, 2018.

4 Please note that the
5 microphones are sensitive and may pick up
6 whispering, private conversations and
7 cellular interference. Please turn off all
8 cell phones or place them away from the
9 microphones as they can interfere with the
10 deposition audio. Audio and video
11 recording will continue to take place
12 unless all parties agree to go off the
13 record.

14 This is media unit number one
15 of the video-recorded deposition of Wendy
16 Teramoto taken by counsel for plaintiffs in
17 the matter of New York Immigration
18 Coalition, et al., versus United States
19 Department of Commerce, et al., filed in
20 the United States District Court, Southern
21 District of New York, case number
22 1:18-CF-05025-JMF. This deposition is
23 being held at the offices of Arnold &
24 Porter located at 250 West 55th Street, New
25 York, New York.

1 My name is Carlos King from the
2 firm of Veritext and I am the videographer.
3 The court reporter is Todd DeSimone also
4 from Veritext. I'm not authorized to
5 administer an oath, I'm not related to any
6 party in this action, nor am I financially
7 interested in the outcome.

8 All appearances will be noted
9 on the steno record. Will the court
10 reporter please swear in the witness.

11 * * *

12 W E N D Y T E R A M O T O,
13 called as a witness, having been first duly
14 sworn, was examined and testified
15 as follows:

16 EXAMINATION BY MR. GERSCH:

17 Q. Please state your name and work
18 address.

19 A. My name is Wendy Teramoto and I
20 work at the Department of Commerce in
21 Washington.

22 Q. Do you do your work in
23 Washington D.C.?

24 A. Yes, sir.

25 Q. And how are you employed at the

1 document. The second page, for reasons I
2 don't understand, are blank. I propose
3 only to mark the first page, unless you
4 object.

5 MS. WELLS: No objection.

6 (Teramoto Exhibit 2 marked for
7 identification.)

8 Q. For the record, this is Bates
9 stamped 3699. It is an e-mail thread, the
10 top one of which states that it is from
11 Secretary Ross sent May 2nd, 2017 to Wendy
12 Teramoto, "Re: Census."

13 Take a moment to read this, I
14 think most of it is blacked out, and let me
15 know when you've had a chance to do that.

16 (Witness perusing document.)

17 A. Okay.

18 Q. Ms. Teramoto, let me direct you
19 to the middle of the document where it says
20 "Begin Forwarded Message: From: Alexander,
21 Brooke, To: Wendy Teramoto."

22 Do you see that?

23 A. Uh-huh. Yes, sir.

24 Q. So this appears that she is
25 forwarding a message, and then the message

1 that she appears to be forwarding is headed
2 Original Message from Wilbur Ross to Earl
3 Comstock and Ellen Herbst.

4 You see that, right?

5 A. Correct. I'm not on the
6 original e-mail.

7 Q. Correct.

8 And then Secretary Ross has
9 written "Worst of all, they emphasize they
10 have settled with Congress on the questions
11 to be asked. I am mystified why nothing
12 have been done in response to my months old
13 request that we include the citizenship
14 question. Why not?"

15 All right, this question
16 appears to have been forwarded to you May
17 2nd, 2017. Do you remember that?

18 A. I don't -- I don't remember
19 receiving it.

20 Q. Do you deny receiving it?

21 A. No.

22 Q. And then above the forwarding
23 part, there is a message that says "Wendy
24 Teramoto wrote: I continue to talk
25 frequently with Marc Neumann and we often

1 have dinner together. He will not leave
2 les, but is in love with the census and
3 talks about it nonstop. Do you want me to
4 set up another meeting? Let me know if you
5 want to have a drink or get together over
6 the weekend."

7 Then Secretary Ross has written
8 in response to you, "Let's try to stick him
9 in there for a few days to fact-find."

10 Do you see that?

11 A. Yes, sir.

12 Q. So you would have received this
13 at the beginning of May, and the message
14 that is forwarded to you has Secretary Ross
15 complaining that nothing has been done in
16 response to his months-old request that we
17 include a citizenship question.

18 Does this help you remember
19 that you had some involvement in getting
20 the citizenship question on the census?

21 A. No.

22 MS. WELLS: Objection to form.

23 A. Well, wait a minute. First of
24 all, this is -- this is two sentences out
25 of an e-mail that I have no idea what else

1 was said. It is titled Census.

2 So this has -- I mean, just
3 because, you know, for you to imply that
4 because I had suggested he set up a meeting
5 or talk to somebody who worked on the
6 transition team for census has nothing to
7 do with, in my eyes, the citizenship
8 question. It has to do with the census as
9 a whole.

10 Q. Ms. Teramoto, you started
11 earlier in your answer referencing that
12 there were things in the message that you
13 can't read.

14 Do you understand that it is
15 the government lawyers who have blocked
16 that information out?

17 A. Between all the lawyers, I
18 mean, you know, it's not -- I'm not part of
19 the process of what is shown or what's not.
20 I know that they follow the rules and
21 regulations of what they are supposed to
22 do.

23 Q. My question is, do you
24 understand that it is the government
25 lawyers who have blocked that information

1 out that you say you can't read on here?

2 A. If that's what you are telling
3 me, I have no reason to believe that it's
4 not true.

5 Q. All right. When Secretary Ross
6 says "I'm mystified why nothing have been
7 done in response to my months old request,"
8 why did Secretary Ross request as of
9 several months apparently before May 2nd,
10 2017, why did he request that a citizenship
11 question be included on the census?

12 A. I have no idea. I mean, as you
13 have correctly pointed out, this was in
14 May. I didn't write the e-mail and I
15 wasn't even -- he didn't even send it to
16 me.

17 Q. I take it your testimony is
18 that Secretary Ross never told you the
19 reason that he made such a request?

20 A. I have never asked.

21 Q. That's not my question. Did he
22 ever tell you?

23 A. No.

24 Q. Did you ever learn to whom he
25 made that request?

1 A. Of what?

2 Q. The request to add a
3 citizenship question.

4 MS. WELLS: I object to form.

5 A. I guess I'm confused. Can you
6 please repeat the question?

7 Q. Certainly.

8 He says he "made a months old
9 request that we include a citizenship
10 question." Did you ever learn to whom he
11 made the request?

12 A. I have no idea.

13 Q. All right. So this is
14 forwarded to you by Brook Alexander, and
15 you respond by saying that you talk
16 frequently with Marc Neumann and asking if
17 the Secretary wants to meet with him.

18 Who is Marc Neumann?

19 A. So Marc Neumann was somebody
20 that I met on the transition team who had
21 worked at Census before.

22 Q. And did you discuss the
23 citizenship question with Marc Neumann?

24 A. Did I?

25 Q. Yes.

1 A. Not that I remember.

2 Q. And --

3 A. Again, a lot of the census
4 focus was on the budget and how are you
5 going to properly ramp up half a million
6 employees in such a short amount of time.

7 Q. When Secretary Ross says "Let's
8 try to stick him in there for a few days to
9 fact-find," did you do that?

10 A. I believe so, but I don't -- I
11 believe I did, but I don't remember when.

12 Q. Okay. And when you say you
13 believe you did, what is it that you had
14 him do? Did you have him go down to the
15 Census Bureau?

16 A. Have who go down?

17 Q. Mr. Neumann.

18 A. No.

19 Q. When it says "Let's try to
20 stick him in there a few days to
21 fact-find," who is the "him"?

22 A. I mean, I didn't write the
23 e-mail. If you want me to guess.

24 Q. This is from the Secretary to
25 you, correct?

1 A. Correct.

2 Q. And you are his chief of staff?

3 A. Well, I wasn't in -- not in
4 that time period.

5 Q. You weren't the chief of staff
6 on May 2nd, 2017?

7 A. No.

8 Q. What were you with respect to
9 Commerce?

10 A. I was a senior advisor.

11 Q. In any case, Secretary Ross
12 sent it to you?

13 A. Sure, on May 2nd, there is an
14 e-mail from Wilbur Ross to me.

15 Q. And he asked you "Let's try to
16 stick him in there."

17 A. Correct.

18 Q. And I'm asking you -- and you
19 said you did it, that was your testimony,
20 correct?

21 A. You were asking me who is
22 "him," and I'm telling you I think it is
23 Marc Neumann.

24 Q. That's what I asked. I didn't
25 think you had answered it originally. All

1 right, thank you.

2 And where did you stick him for
3 a few days to fact-find?

4 A. I'm not sure how to answer that
5 question. I don't think I stuck Marc
6 Neumann anywhere.

7 Q. I'm just using the Secretary's
8 language, it's not yours. Secretary Ross
9 says "Let's stick him in there." Where is
10 "in there"?

11 A. I believe he is saying let's --
12 this is me trying to guess what "stick him
13 in there" meant over a year ago, but I
14 believe it is trying to find something on
15 his calendar to meet with him. I don't
16 think he literally meant to stick Marc
17 Neumann somewhere.

18 Q. So if I understand you
19 correctly, when he says "Let's try and
20 stick him in there for a few days," are you
21 saying what Secretary Ross means is can you
22 get Mr. Neumann on my calendar?

23 A. I mean, when I look at it, it
24 would have been something like that. There
25 was never a time period when I tried to

1 stick Marc Neumann in anyplace.

2 Q. All right. Does your thinking
3 this has to do with getting him on the
4 calendar, does that square with the "for a
5 few days to fact-find"?

6 A. Again, I mean, you asked me
7 what I thought, if I had read it. I would
8 have said get him on the calendar, even
9 today.

10 Q. So if I understand your
11 testimony, you were not chief of staff at
12 this time, you were a senior advisor, and
13 so you would have become chief of staff
14 sometime after May 2nd, 2017; is that
15 right?

16 A. I would -- it is correct to say
17 that I would become chief of staff after
18 May 2nd of 2017.

19 Q. Do you connect or relate
20 becoming chief of staff to any particular
21 event? I'm trying to get a rough sense of
22 the date. So I'm trying to understand --

23 A. Oh, you should have just asked.
24 No, I believe I became chief of
25 staff, I don't have the exact date, sir,

1 but it was -- I believe it was right at the
2 end of July of 2017.

3 Q. Did you ever speak with Marc
4 Neumann about the citizenship question?

5 A. Not that I remember.

6 Q. You are still chief of staff
7 today, correct?

8 A. As far as I know, sir.

9 Q. Let's mark another document.
10 Let's have this marked as Teramoto Exhibit
11 No. 3. It is a two-page document, 763 and
12 764.

13 (Teramoto Exhibit 3 marked for
14 identification.)

15 A. Is this the entire e-mail, sir?

16 Q. That's what has been produced
17 to us.

18 A. Okay. Would you like me to
19 read it, sir?

20 Q. I'm going to ask you a question
21 about it, and at that point I would say
22 read it to the extent you need to read it
23 to answer the question.

24 A. Okay.

25 Q. So this is an e-mail chain,

CERTIFICATION

I, TODD DeSIMONE, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness whose testimony as
herein set forth, was duly sworn by me; and
that the within transcript is a true record
of the testimony given by said witness.

I further certify that I am not related
to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 24th day of August, 2018.



TODD DESIMONE

* * *