UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(WESTERN DIVISION - LOS ANGELES)

PEDRO VASQUEZ PERDOMO, ET AL, Plaintiffs, vs. KRISTI NOEM, ET AL, Defendants.	CASE NO: 2:25-cv-05605-MEMF-SPx CIVIL Riverside, California Tuesday, December 9, 2025 (11:35 a.m. to 12:29 p.m.)

ZOOM HEARING RE: MOTION TO COMPEL [DKT.NO.266]

BEFORE THE HONORABLE SHERI PYM,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:	See page 2
Court Reporter:	Recorded; CourtSmart
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Riverside, California; Tuesday, December 9, 2025; 11:35 a.m.

(Call to Order)

THE CLERK: Calling Case No. 2:25-5605, Pedro Vasquez-Perdomo v. Kristi Noem. Counsel, would you please set your appearances for the record, starting with the plaintiff?

MR. FRY: Good morning, Your Honor. David Fry of Munger, Tolles & Olson for the plaintiffs.

THE COURT: Good morning.

MR. ROSS: Good morning, Judge Pym. Jonathan Ross for the defendants, United States.

THE COURT: Good morning.

MS. XIAO: Good morning, Your Honor. Wendy Xiao on behalf of intervenors.

THE COURT: Good morning. All right. So, we're here for, I guess, one of the continuing in the series of status conferences, but more are here on plaintiff's motion to compel. So let me kind of go through what I think are the issues here and then we can have argument about that and also updates about where things stand.

So on the motion to compel, there's kind of the issues that, well, in terms of remaining issues focused on, there was the issue of the completion of production by what had been the initial November 4th deadline for producing documents relied on in opposition to the TRO and preliminary injunction motion. And that issue -- I mean, the issue is somewhat mooted

in that the production seems to be largely complete except that there are these remaining issues surrounding privilege and the scope of production, and then there's also -- this is really going beyond just the November 4th deadline, but the drone footage.

So I think it probably makes sense to sort of take those separately. And so starting just with the privilege issue or issues here, in terms of the claims of attorney/client privilege, in looking over the papers and the log, I think with one exception, it doesn't seem that that privilege would apply. The privilege does not apply to training materials that essentially just explain the law or what the policy that's been determined is or addresses hypotheticals. And the log itself does not really support a claim of attorney/client privilege or work product. With the exception of, I think, Documents 171 to 172, those appear to be specific to this case. But apart from that, there doesn't appear to be a real basis to claim the privileges here.

Defendants are now stating that they'll submit a declaration to support that. I know this is coming in a little late now, but it's -- and more than that, it's not clear to me what that declaration could say that would support the privilege here. There's also -- it appears that defendants have waived any privileged claim by relying on essentially an officer training defense in this case. And then with respect

to the law enforcement privilege, well, that was not at least initially claimed on the privilege log, so that's also kind of a belated assertion of a privilege. But even accepting -- if you accept that it could be -- the privilege could first be raised in the joint stipulation, there's not a -- the privilege doesn't -- and, of course, there's this question about whether the law enforcement privilege even exists since the Ninth Circuit hasn't explicitly recognized it yet, although it hasn't been rejected either.

But assuming there is such a privilege, the requirements for that privilege, including essentially a formal claim of the privilege by the head of a controlling department, hasn't happened here, and also the privilege just doesn't appear to apply on the circumstances of this case. There hasn't been any showing that there are real sensitive law enforcement matters that would be revealed by this.

So I'm inclined to overrule the privilege claims here, but I am happy to hear, before we get to the other issues, any argument that counsel would like to make about that. So I guess -- well, let me start with just -- well, because it's plaintiff's motion, we'll start in that order. So, Mr. Fry, if you wish to be heard first.

MR. FRY: Your Honor, you'll be surprised to hear that I agree with you pretty much down the line on all those things. I think that the only thing I would say, in addition

to what the Court has already said, is that if the Court were to consider addressing the law enforcement privilege in ruling against us, I would ask that that be deferred because we're in the process of briefing law enforcement privilege in the context of a bunch of other documents, but I don't really have any arguments with what the Court just said because we agree with all of these.

THE COURT: Well, I mean, as you know, there are some timing issues with all of these because everything is so much ongoing here, but let me give Mr. Ross a chance to be heard then, and then I'll give you a chance to respond as needed.

MR. ROSS: Thank you, Your Honor. And it will also surprise the Court to learn that the Government respectfully disagrees with the decision, respectfully, and we ask for the Court's additional consideration.

And I'd really like to direct the Court's attention to several points and arguments that plaintiffs raised in their supplemental memo that apply to the privilege assertions generally. I'd like to begin with the attorney/client privilege because the Government maintains that these are materials that were prepared and created and presented by attorneys to clients for the purpose of providing legal advice. And even in the context of acknowledging that some trainings in some other context may not be privileged, for example, trainings that are administered from an agent to a junior

agent, we believe that the case law supports attorney/client privilege applying here, particularly when the clients are relying on this type of advice as part of their continuing responsibilities as law enforcement officers, building upon their experience and learning about nuances in the law as they unfold.

And that actually dovetails nicely with how the work product privilege applies too. My colleagues in their briefing note that the Government argued that the stops at issue were lawful because of the training. That misstates the Government's position. The role of the trainings here deals with not only the changes that are occurring in these key Fourth Amendment issues as they evolve, but in fact we see cases very similar to this coming out of Illinois, coming out of Washington, D.C., coming out of the Northern District of California.

These changes are part of a concern by plaintiffs across the country, some of them who are also counsel here if I'm not mistaken, in bringing these issues to the attention of courts throughout the country. And the Government is updating our materials as a result of that.

To the waiver point, simply because we're providing these trainings, it's but one part of the understanding that goes into a seasoned law enforcement's understanding of what the law is and how it is a living, breathing thing that is

subject to change. So in terms of attorney/client privilege and work product privilege, specifically, we maintain that the protections or the privileges is necessary because of the legal advice provided from attorneys to clients, and that it's advice that is in turn acted on as part of the law enforcement process.

There's one other thing, too, I'd like to speak to just very briefly, and that's the question of the declaration. The Government maintains that the declaration will assist the Court in evaluating these issues. Indeed, it's not uncommon for a declaration to be submitted, even at this point of litigation, and the Coastal States case that we submit to in our briefing supports that. That a declaration can still -- in that case, a declaration wasn't actually submitted. However, the Court entertained the submission of a declaration even after the oral argument on the actual motion to compel.

So we would ask that the Court allow us to submit a declaration so that we can demonstrate to the Court our -- the role that every specific document played rather than take away a governmental privilege at the macro level without that individual analysis.

THE COURT: When do you think that declaration could be submitted?

MR. ROSS: Your Honor, I know that we've been working on a declaration because of the volume of documents in this

case, as well as ongoing depositions that are continuing this week as well into next week. I don't have a solid date, but I would ask the Court for the indulgence of two weeks to be able to finalize those declarations, please.

THE COURT: I mean, that's a pretty long period of time given the schedule that we're under here and given -- you know, I understand the arguments you're making, but what I'm hearing is that in terms of privilege, that there's this sort of -- I mean, of course there's always, you know, in anything involving the police, there's this general anticipation that there could be litigation, but that seems all we're really talking about here. And that's why I'm having a hard time seeing how these materials, these largely general training materials, could fit properly under the privilege. And so two weeks seems like a long time to hold off on deciding this issue here, given depositions are ongoing and so forth.

MR. ROSS: Understood, Your Honor. And we will, of course, endeavor to get it on as quick of a timeline as possible. We would ask for a minimum of 10 days just to allow for presentation of a document that would hopefully be able to at least provide context to plaintiffs and the Court beyond what we've already briefed.

THE COURT: All right, and let me ask you, Mr. Ross, how has this matter not already been waived anyway, given the defenses that have been raised? I mean, I understand your

argument that, well, it's a little more complicated than that. But nonetheless, that's essentially what it seems that you're relying on as a defense to a lot of the TRO and motion for preliminary injunction, and not unreasonably so. And it's, again, going to this issue why I'm struggling with seeing this as a privileged matter.

MR. ROSS: Your Honor, it goes to -- I think that the Government's defense as to why the stops at issue were lawful is best memorialized as a presumption that the Government operates in good faith and a presumption that officers of the United States Government conduct their activities as law enforcement officers lawfully. And the officers at issue here are, in many cases, individuals who have years and years of experience.

When the Government's position in the TRO and PI oppositions was that these agents and officers have the experience and judgment and training necessary to effectuate these arrests or to not effectuate an arrest where the law would not support one. Training is but one part of what makes an officer's discretion. And so I think it's more accurate to say that we have, in relying on the abilities of the officers here.

Plaintiffs have not shown a wholesale -- just by means of an example, a wholesale departure from proper police activity. For the most -- overwhelmingly, the record shows

that arrests and encounters were done lawfully. And as a result of that, that goes to the temperament and discretion of these officers.

THE COURT: All right, thank you. Mr. Fry, did you wish to be heard further on this matter?

MR. FRY: Yes, Your Honor. And first, I wanted to clarify a point from my earlier comments. I would like to circle back to the scope issue at some point this morning.

THE COURT: Right.

MR. FRY: I didn't want to be heard to --

THE COURT: Yeah, no, we will get to that, but I'd like to just address this privilege issue first.

MR. FRY: Okay, great. So first, with respect to Mr. Ross's comments about a presumption, we would like this case to be decided on evidence, not on the basis of a presumption that the Government didn't violate the Constitution. And in terms of whether there was a wholesale departure from the norms of the Constitution, I think that the district court's order on the TRO would suggest that the district court may have a different view of that than Mr. Ross does.

With respect to the request to file a further declaration, I think that A, as the Court pointed out, this is very late in the day. Ten days from now means all of the percipient witnesses' depositions that we're taking will be

completed. But moreover, it's just moot.

If the Court would indulge me, I would like to share my screen for a moment to share a portion of the brief that the Government filed with the district court in opposition to the motion for preliminary injunction.

THE COURT: Yes, that's fine. Are you able to do that?

MR. FRY: It's saying the host isn't allowing sharing for this webinar. Maybe I can't do that.

THE COURT: If you give us just a moment here. If you could try again and see.

MR. FRY: Okay. Oh, great. Your Honor, are you able to see?

THE COURT: I am, yes.

MR. FRY: Great. So, Your Honor, I would like to ask the Court to imagine that this paragraph that the Government submitted in opposition to the motion for preliminary injunction said in each place where it talks about training or instruction, advice of counsel or legal advice or something like that. So with respect to line 14, officers received Ninth Circuit-specific immigration enforcement legal advice, including advice of counsel on Fourth Amendment requirements. Or the next sentence, they are advised by lawyers that reasonable suspicion and probable cause are evaluated under a totality of the circumstances standard. Or at line 17,

officers also receive advice of counsel on the statutory and regulatory provisions. You get the point.

What you are hearing from the Government now is that training is legal advice. And if training is legal advice, then what they were telling the judge in opposing the preliminary injunction is they were relying on that legal advice. And that means they cannot assert privilege over the relevant communications. So even if they put in such a declaration, it would be moot, because if it were legal advice, they have waived it.

With that, Your Honor, I'll just answer any questions the Court may have.

THE COURT: And can I just ask, going back, and if you could maybe take down this document then so I can see what -- but going back, you had initially mentioned that you were in the process of briefing the law enforcement privilege issue. And so what, and I may be just getting a little mixed up here, but which motion is that in connection with?

MR. FRY: Your Honor, in connection with their later document productions, the Government redacted a tremendous amount of information on the basis of an asserted law enforcement privilege. That is not part of this joint stipulation, because it was received too late to get it in the schedule.

THE COURT: I see, so this is a motion you're

preparing now. I see, okay.

MR. FRY: Yes, we provided Mr. Ross with our portion of the joint stipulation on that issue yesterday, and I anticipate we will receive the Government's portion later this week, and we will get that on file. So that will be teed up for the Court.

THE COURT: All right, all right, thank you. Mr. Ross, did you wish to be heard further, specifically about this law enforcement privilege issue, about whether you think that issue is ripe now?

MR. ROSS: I agree with my colleague, Mr. Fey, that the briefing on that issue does remain ongoing. To the extent that the Court has already shared some of its conclusions on it, we would only raise that the instances of -- as the Court recognized, law enforcement privilege has neither been claimed or disclaimed in the Ninth Circuit, and particularly with the current day, as the court is already recognized in granting this language in the protective order, the current constraints of risks that can befall on immigration authorities, as well as the executive branch's ability to conduct immigration enforcement operations, those go hand in hand.

We have to protect the law enforcement officers that are in the field, as well as their sources and means. And that is what law enforcement privilege aims to protect, and we seek

the Court's indulgence in briefing this issue further.

THE COURT: Well, I mean, again, and this is what I'm struggling to sort of -- I mean, obviously, officers need to be protected. I'm just not seeing how that applies to what's at issue here. And maybe I do need to just wait for this further briefing, because I'm really struggling to even understand how the claim of law enforcement or privilege applies in this case, in the broad way it seems to be being claimed.

In terms of the attorney/client privilege, what I'm contemplating is essentially allowing seven days to submit a further declaration so that I can get a ruling out then by the end of next week on this, because I feel like this is just all taking too long. And so that's what I am thinking about here. But let's get on to some of these other issues, and then I'll kind of circle back at the end and see where we're going with everything.

So the sort of -- the scope issue here that has been alluded to also goes to some of the supplemental briefing that counsel provided at the end of last week. And after that, I went back and I reviewed Judge Frimpong's October 17th order and some of the briefing that led up to that. And it seems to me that there's really no basis to find that the Court in any way limited the plaintiff's discovery request to the factual record that sort of existed at the time of the briefing on the motion for TRO and preliminary injunction. I mean, it really

seems the opposite of that. I didn't find anything in the order that said that.

And what the order, you know -- well, first of all, the order explicitly did find that plaintiffs could serve their proposed interrogatories and requests for production, which included as to RFP No. 2, requests as to 15 operations, which specifically were 12 that had already been identified, and then three additional ones that were noted that the reason plaintiffs were seeking that was because raids were continuing. So it seems to envision that it would concern raids that occurred after that earlier timing of the briefing, which makes perfect sense to me because this is about, of course, prospective relief.

And so since the whole point of a TRO or preliminary injunction would be to address things in the future, it doesn't make a lot of sense to me that the discovery would have been strictly limited to some earlier cutoff. But in any event, the things that plaintiffs also said they were seeking discovery into as part of that motion to allow this discovery included opposing defendants' arguments that -- or rather, addressing defendants' arguments in opposition that included, yes, officer training, but also reasons for stops, which, of course, wouldn't be necessarily frozen in the past, and the argument that plaintiff's motion was unsupported by evidence, which also seems fairly broad.

So I don't see any real reason that the scope of these discovery responses would be limited in the way that defendants have been limiting them. So those are my thoughts about that. And I'm not sure if that addresses all of the scope arguments that you were also looking to address, Mr. Fry, so I don't want to limit you in that way. But did you wish to be heard with respect to this scope issue?

MR. FRY: Yes, Your Honor. I want to first try to level set on some distinctions among issues in this case. So the joint stipulation that is currently before the Court was targeted only at the production that the defendants did on November 4. Defendants took the position that they only had to produce documents responsive to request number one on November 4.

There are a whole bunch of scope issues in terms of their production that are not briefed in this joint stipulation. The one you alluded to, the three additional raids, has been briefed, and it's one of those issues. There are a series of other issues with the scope of their production that we have sent them a meet and confer letter on. We are awaiting their response. But there are going to be other issues coming down the pipe about the scope of their production.

Just as an example, it appears that the only body camera footage that they produced was from the officer who

arrested or otherwise directly interacted with a person who submitted a declaration in the case. They did not produce body camera footage from the other officers who were present when that happened. They didn't produce body camera footage for other officers who were at the operation where that happened. And our document request was framed in terms of documents relating to a series of operations, not relating to this officer and his interaction with a particular person.

And so we think that in very significant ways, their production was far more narrow than it should have been, but those issues are still to come.

THE COURT: Okay, and so that I understand. I understand there are additional issues to come, Mr. Fry. And I should have addressed earlier with respect to the scope argument.

I guess what I'm somewhat trying to get at is issues that maybe are fairly within the scope of the instant motion to compel and also the briefing last week but that aren't moot, because one of the initial issues, and I think this has been addressed in an earlier status conference call we had, but this issue that the November 4th deadline was limited to requests for production, one, I think -- I mean, that was certainly not my intention. But in any event, that seems to be somewhat of a mooted issue now because we're past the deadline for all production, of course.

MR. FRY: Thank you, Your Honor. May I address that question?

THE COURT: Yes.

MR. FRY: So the nub of the scope issue in our joint stip, the nub of the issue about the November 4 production is that the district court quite pointedly said the defense counsel should have reviewed documents concerning these incidents before filing their opposition to the TRO and the preliminary injunction. And so it should be easy for them to produce documents relating to those specific operations because they will have already gathered them and looked at them. That's at page 9 of the district court's October 17 order granting expedited discovery.

It's becoming increasingly apparent that counsel did not do that. You will recall the November 25 status conference, the one that was right before Thanksgiving, there was an interaction where Mr. Ross said that Border Patrol was going to send the body cam footage to DOJ that same day. And the Court asked for clarification on that point because the deadline for production had already passed and the lawyers were just now getting the body cam footage. So clearly, if they didn't have the body cam footage on November 25, they had not reviewed the body cam footage before they filed their papers in opposition in August and September.

I also had a point I was going to make about

testimony that we got yesterday in the first deposition in the case concerning when that particular agent who we deposed yesterday was first asked to provide documents, but I have been advised by Mr. Ross after I asked him for consent for me to talk about that testimony that he would not consent. It's subject to the confidentiality order because all depositions are subject to confidentiality for a period after the deposition occurs. So I will not violate the protective order, but in my view, the testimony received yesterday supports the notion that they did not review all of the documents relating to these incidents before they filed their opposition.

We think that the Court's October 23 scheduling order unambiguously directed the defendants to produce on November 4 the documents that they relied on in opposing the TRO. The district court, as I mentioned, said that it should be easy for them to produce those. We understand that the Court at the November 14th conference indicated that perhaps the November 4 deadline was not supposed to be such a hard and fast deadline, but we don't think that explains why defendants failed to produce any operational documents by November 4.

For one thing, the November 14 conference had not taken place when defendants made their November 4 production, so the defendants could not have been relying on the Court's comments there. If you look at their brief, they cite that transcript a lot, but they don't cite your order very much.

And if you look at Mr. Ross's November 7 letter attempting to justify defendants' failure to produce any operational or documents related to operations on November 4, what he says there is that the Court's order setting the November 4 deadline only applied that deadline to training documents. That's a position that we think is not supported either by the order or by the November 14 transcript. There was no time, in our understanding, the Court said that that date only applied to training documents, but that's a position that the defendants took in the immediate aftermath of their production.

So we think that the defendants should be required to explain why they could not produce any operation-specific documents on November 4. If that's because they had not, in fact, gathered those documents to review them before their filing an opposition to the preliminary injunction, the district court should know that.

In addition, well, I'll stop there for now.

THE COURT: All right. Thank you. Mr. Ross?

MR. ROSS: Your Honor, I think the plaintiffs misstate part of -- for one, any type of terminology that's in the letter. I think what might be most helpful to the Court is, just as a predicate matter, about an hour before today's hearing, Mr. Fry did reach out to me and ask me whether the Government would consent to sharing this confidential

information. And the Government's position was, as this is a hearing on -- it was our understanding that this is a hearing on plaintiffs' motion to compel, and not a discovery status conference, that it would be inappropriate to do that at this time, as it would muddy the waters.

However, the Government is amenable to changing that position and discussing things at high level, in the interest of transparency, if the Court intends for this to be expansive as a discovery conference.

THE COURT: Well, I did -- I mean, I thought I had said at the conference last week that today would also be sort of one of the ongoing status conferences, and I realize that things are getting kind of -- things are getting a little -- there's a little bit of blurring -- well, more than a little bit of blurring between what's at issue in the motion to compel and these ongoing matters, and in part because, you know, it's -- the record is not fixed at this point, it's being developed as, you know, as things are continuing to transpire.

So it's -- so I would like to, to the extent we can, address sort of the status conference matters that are aimed at helping the case to just kind of move forward. I also need to, though I do want to focus to the extent I can on what's at issue in the actual motion to compel file, because I do want to get an order out on that, and there's this issue that Mr. Fry just addressed, which had been, you know, some of my concern

about going back to the November 4th production, which does appear to have fallen, you know, I realized I had clarified on November 14th that I didn't expect that, you know, there were -- I thought it was certainly possible that everything that defendants relied on wouldn't be able to be produced by November 4th. That said, I thought the bulk of it would be, and it certainly wasn't supposed to be limited by categories in any way.

So from what I hear, my concern then is that issue all kind of moot now anyway, but what I hear Mr. Fry asking is that at a minimum, defendants should be explaining why the November 4th production was limited to the extent it was. So I think that's an issue that fairly, you know, should be addressed here today.

MR. ROSS: Yes, Your Honor. Certainly. And Mr. Fry brings up a point that we would agree with. In the Government's papers on this issue, we cite to this Court's order, and then other times, we mentioned how the court explained the kind of -- further qualified the scope, the scope reading. And I don't think that it's accurate to say that it's, as Mr. Fry seems to be suggesting, that it was a post hoc realization. I think that the more accurate way in how we've discussed this with the Court in full transparency before, when we read the order, we read it as relating to the -- by November 4th, to produce RFP -- essentially, the materials that were

relevant to RFP 1. And based on that reading, that's what we did.

And subsequently, when we raised that interpretation to the Court, that's when the Court explained that certainly there was an expectation of all documents that the Government relied on, just the documents, you know, some of the documents. It was never -- we didn't have the time to create a hierarchy of what we were going to deliver, and to the extent that it's being suggested we withheld -- there'd be no point to withhold some documents and not others if they were -- if they were -- we -- the Government provided, served the responsive documents on the date that we read as operative. And to the extent that there's a reasonable disagreement with that, we think the Court's already resolved that scope issue.

THE COURT: Well, let me, I mean, Mr. Ross, this is -- all right, so there's kind of two different issues going on here. One was sort of the wording of the order. And the order said produce documents, you know, the minimum documents relied on by November 4th. And I didn't use the word all because it seemed to me that it was pretty likely that by November 4th, there would be something that, you know, you wouldn't have been able to collect. It was my intention that, you know, the bulk of the things relied on that had already been reviewed and relied on in connection with opposing the TRO and preliminary injunction motions would be produced by November 4th. But that

was sort of like, at a minimum, let's get this done by then. And then by, you know, I think it was November 25th, everything should be produced, right?

So but looking at the RFPs here, I mean, RFP 1 is just training guidance. That it wasn't everything relied on in opposition, right? That's just RFP 1. The other RFPs clearly touch on matters as well that would have been relied on by the Government in opposing the preliminary injunction and TRO motions. So that's where I'm a little -- I'm not really sure why there would have been any limitation to RFP 1 in the November 4th production.

MR. ROSS: Your Honor, I think it's in response to the way that plaintiffs have sought discovery and have sought the -- have even participated in the LR-37 process, that training has and continues to be a central focus. So I think that the effort was to work with plaintiffs in good faith to provide those training materials as much as possible, particularly because the interest is, as Mr. Price said earlier, that the Government relied on, you know, using his words, the Government relied on training as a sword and shield for why the stops were lawful. And so that's why we interpreted that to mean the trainings were to be provided first, because the order was the Government was to produce the training materials that were cited, that were relied upon in the opposition to the TRO and the PI.

To the extent that there was a good faith misunderstanding of what the Court was intending to have delivered, the Government maintains it was unintentional based on just our good faith reading of what to provide and when. But it's also, as the Court's also acknowledged, mooted by the fact that the overwhelming majority of materials have been turned over and indeed are continuing to, just for full candor to the Court, as consistent with the errata we submitted earlier, we did identify additional body camera footage, and we also identified, and this relates somewhat to I think a point that my colleague, Mr. Fry, would like to raise, we also discovered that there's additional drone footage as well.

The Government is not trying to hide the ball here or to play games with words. We really are aiming to produce exactly what the Court has ordered as on the timeline that the Court has set and we maintain that.

It's also just, if I can say one final point, that a lot of the discovery that is being sought here really does go above and beyond what was at issue in the TRO and in the PI. It feels as if plaintiffs are treating elements of this discovery as full merits discovery and not targeted limited discovery that the Court originally envisioned.

THE COURT: Well, but I -- I mean, I understand that argument, although I would imagine that when this case finally

gets to regular discovery, it's going to be a lot broader than what we have here. So I think it is still fairly well limited. I mean, the issue obviously at -- what's at issue on the motion for preliminary injunction is a pretty big issue. So I think there's a lot more going on in this case, but let me just ask, with respect to what we're talking about right now, Mr. Fry, is there anything further you wanted to say?

MR. FRY: So, Your Honor, what I would suggest is I have concern that now we've had two different issues in this hearing where the Government construed one of the orders issued either by the district court or by this Court in a way that cannot be justified based on the language of the order and which caused them to limit the discovery they were providing.

I am worried about that becoming a pattern where they take an untenable reading. To be perfectly frank, I can't imagine what it is in the Court's October 23 order that they think suggests they only had to produce trainings on November 4. I am concerned about that pattern developing and becoming a further issue in the case. This is going to be a big case. There are going to be a lot of discovery requests made. If we end up having to come back to the Court over and over and over again, it's going to be very burdensome and expensive for our clients.

THE COURT: All right. Let me just ask about one additional thing. There's the scope issue with respect to

what's been produced and why it was so limited. There's also this issue that I had raised about the limitation of essentially the documents produced with respect to certain operations on RFP No. 2 that the Government decided not to produce documents responsive to some of those as to some of the raids that were conducted. As to that second issue, Mr. Ross, did you wish to be heard?

MR. ROSS: Your Honor, just that the Government maintains that in as much as the district court anticipated plaintiffs being able to identify additional immigration enforcement encounters, it was meant to be within the timeline of the preliminary injunction briefing at issue.

THE COURT: Okay. Well, I really don't read the order that way at all. And so to the extent documents have been withheld on that basis, they should be produced. So what I'm inclined to do is to -- with respect to the motion to compel, there's this scope issue and the privilege issue. What I'm inclined to do on the motion is to essentially order that with respect to the scope issue, require that defendants do provide, I think, some sort of verified statement explaining their process for how they've responded to discoveries they have, because I am concerned that it's been limited in ways that don't make a lot of sense.

As I said, I didn't expect that they'd be able to produce everything by November 4th, but at the same time, it

appears to have been limited in other ways that are really hard to square with the court orders. And then to order specifically on this sort of supplemental briefing issue that the production not be limited to exclude the post-September, whatever the date it was, the three raids that were after that.

So with respect to the privilege issue, I'm inclined to give defendants seven days to submit a declaration and then, at least on the attorney/client and work product issue with respect to what's in the log. And then law enforcement privilege, well, I know you're working on briefing on that right now. So just everything is sort of piecemeal here and I'm not -- that concerns me. But I think I will issue an order with respect to the scope and then wait for the seven days to see the declaration before I address the privilege issues in this motion.

Is there anything else we need to take up with respect to this motion specifically?

MR. ROSS: Your Honor, if the Government can just briefly be heard, we understand the Court's decision and we intend to comply.

THE COURT: All right. Thank you. Anything else, Mr. Fry, on this motion?

MR. FRY: No, Your Honor. Thank you.

THE COURT: Okay. And, Ms. Xiao, anything that

you've been just sitting here patiently, is there anything you wanted to raise with respect to this motion? I think this is more of the plaintiff's motion, but --

MS. XIAO: No, Your Honor.

THE COURT: Okay.

MS. XIAO: Thank you.

THE COURT: Thank you. And then the other sort of the outstanding issue I had, and the parties may have something else, but just that had been raised at the conference last week was this drone or I think it's SUAF footage. Where do things stand on producing that?

MR. ROSS: If the Government may answer, Your Honor.

THE COURT: Yes.

MR. ROSS: So very quickly after that hearing, I don't have the production in front of me, but I believe it was the next day we served on plaintiff's what we believed to be all of the drone footage at issue. We learned late last night that there was one additional, and I'm using the wrong terminology, I apologize. It's one additional SUSA video that was found and we intend to serve it on plaintiffs as quickly as possible. We also just wanted to share with the court that the SUSA footage that was shared was able to be submitted without redactions.

THE COURT: Okay. All right. Great. All right. Is there anything else, Mr. Fry, that you wish to raise with

respect to that issue specifically?

MR. FRY: Your Honor, I will just say that I will not be surprised if we end up back before the court based on the scope of their production of drone footage, but I don't have anything in particular to add today.

THE COURT: Okay. All right. Is there anything else we needed to take up here then today?

MR. FRY: Your Honor, if I might briefly just give a report that the defendants indicated that it would not be possible for them to produce all of the percipient witness deponents before the December 12th deadline. The parties have met and conferred and have agreed on a schedule that will complete plaintiff's depositions of percipient witnesses by December 19, and there will be a stipulation that we'll be filing to that effect.

THE COURT: Okay. All right. All right. Thank you. Anything else, Mr. Ross, you wish to raise?

MR. ROSS: That's everything from the Government. Thank you, Your Honor.

THE COURT: Okay. All right. Thank you. And, Ms. Xiao, anything you wanted to raise?

MS. XIAO: Nothing from intervenors, Your Honor. Thank you.

THE COURT: Okay. All right. All right. Then thank you all. Let's see. Where are we? Do we need to -- I don't

think -- I know that defendants have filed their motion and I don't, off the top of my head, remember when that is set for hearing. I think that's a motion for protective order. I think that might be December 23rd.

MR. ROSS: I believe so, Your Honor.

THE COURT: Okay. I will not be here for a December 23rd hearing and I need to look at the briefing to see if we even need a hearing on that, but I'm wondering if it makes sense to set sort of a placeholder status conference hearing for maybe the end of next week, and I know the parties are engaged in depositions and so forth, so.

MR. ROSS: If it helps, Your Honor, the Government would be -- oh I'm sorry, Mr. Fry. If it assists the Court's adjudication of the matter, the Government is prepared to rest on the papers.

THE COURT: Yeah, I mean just glancing at it, that seemed to me a motion that likely could just be resolved on the papers, but I'm thinking also just about other, you know, just because we've been having these ongoing status conferences, although it seems the parties are continuing to meet and confer and so forth. But, Mr. Fry, is there anything you wish to say on this?

MR. FRY: Your honor, from our perspective, it would be very helpful for the Court to set that, and if it turns out that we don't have any issues that we need to request the

Court's intervention on, then we will inform the Court. I think we could work with the defendant's counsel to jointly inform the Court that it's not necessary, if in fact it's not necessary.

THE COURT: All right, thank you. Do you --

(Pause)

THE COURT: So maybe on -- do you have depositions set for the 19th right now?

MR. ROSS: We do.

MR. FRY: Yes, Your Honor.

THE COURT: What about the 18th?

MR. ROSS: Nope, we do not have one currently on the 18th.

THE COURT: Okay, all right, so why don't we set just a status conference for, I don't know, we could do 10 o'clock on the 18th, Thursday the 18th, and if it's not necessary, then certainly the parties can take that off calendar.

MR. ROSS: Thank you, Your Honor.

THE COURT: All right, all right, thank you all, and then I'll be -- you know, we'll be issuing orders and for the supplemental briefing that I'm sure is coming, so all right, thank you.

ALL: Thank you.

THE CLERK: We are now adjourned.

(Proceeding concluded at 12:29 p.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

December 10, 2025

Signed

Dated

TONI HUDSON, TRANSCRIBER