

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

THOMAS C. PORTA, et al.,)	
)	
and)	
)	
ANDREW D. BARTH, et al.,)	No. 05-14210C
)	& No. 05-759C
Plaintiffs,)	
)	CONSOLIDATED
v.)	
)	(Judge Firestone)
THE UNITED STATES,)	
)	
Defendant.)	

DECLARATION OF MAAME A.F. EWUSI-MENSAH

I, Maame A.F. Ewusi-Mensah, state the following:

1. I am an attorney with the Department of Justice, Civil Division, Commercial Litigation Branch, Washington, D.C. In that capacity, I am counsel of record in Thomas C. Porta, et al. v. United States, No. 05-14210C, and Andrew D. Barth v. United States, No. 05-759C.

2. Arthur I. Rettinger, counsel for Customs and Border Protection (“CBP”), has served as agency counsel in this matter. As sole agency counsel for CBP assigned to these cases, Mr. Rettinger is the attorney with principal access to the sources of information requested in the Court’s May 3, 2007 order.

3. Shortly before the May 3, 2007 conference between the parties and the Court, I learned that Mr. Rettinger was on an extended leave.

4. Upon issuance of the Court’s May 3, 2007, order, I contacted Mr. Rettinger’s colleagues to request that they initiate the search for responsive documents in Mr. Rettinger’s absence. I worked diligently with agency counsel to explain to them the requests and impress

upon them the deadline set by the Court. Counsel assured me that they, too, were working diligently with the relevant sources of information to locate responsive documents.

5. Upon Mr. Rettinger's return to the office, he contacted me to discuss the search for responsive documents. At that time, I learned that the email searches conducted by Mr. Rettinger's colleagues consisted of searches for the relevant search terms in the "subject line" of the emails in the accounts of Wayne Coleman, Alethea Smalls, and Ronelle Rotterman.

6. Upon learning this, I asked Mr. Rettinger to conduct additional email searches for the relevant search terms in the body of the emails in the accounts of Wayne Coleman, Alethea Smalls, and Ronelle Rotterman.

7. Mr. Rettinger and I have been informed by CBP Information Technology personnel that determining the cost and time frame for conducting these additional searches will take at least one week, and the additional searches may take two months or longer given the limitations of the technology used by Customs and Border Protection to store and search these email accounts and the fact that Customs and Border Protection staff responsible for these searches are currently engaged in a large technology migration involving CBP's email software.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 24, 2007.

s/ Maame A.F. Ewusi-Mensah

Maame A.F. Ewusi-Mensah