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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

NATIONAL URBAN LEAGUE, *et al.*,

Plaintiff,

v.

WILBUR L. ROSS, JR., *et al.*,

Defendants.

Case No. 5:20-cv-05799-LHK

**DECLARATION OF
JAMES T. CHRISTY**

1 I, James T. Christy, make the following Declaration pursuant to 28 U.S.C. § 1746, and state
 2 that under penalty of perjury the following is true and correct to the best of my knowledge and
 3 belief:

4 **I. Executive Summary**

5 1. I am the Assistant Director for Field Operations at the U.S. Census Bureau, and I
 6 submit this declaration in response to the Court's September 14, 2020 order to "investigate all the
 7 allegations of potential non-compliance with the Court's Temporary Restraining Order in the email
 8 the Court filed on September 12, 2020, ECF No. 100, as well as in Plaintiff's September 14, 2020
 9 response, ECF No. 108."

10 **II. Qualifications**

11 2. I have worked for the Census Bureau since April 1987, serving this entire time in
 12 the Field Division. I have worked in numerous capacities on both Decennial Census (1990, 2000,
 13 2010, 2020 and numerous Decennial Census Tests) and non-Decennial Census operations. This
 14 includes permanent assignments at Headquarters and in regional offices in Denver, Kansas City
 15 and Los Angeles. I also served in temporary roles in Detroit, New York, Dallas, Phoenix and
 16 Minneapolis. I was the Regional Director in the Los Angeles Region for 16 years prior to working
 17 as the Assistant Director for Field Operations.

18 3. As the Assistant Director for Field Operations, I oversee data collection activities
 19 for the Field Directorate, including the six "permanent" regional offices, the National Processing
 20 Center in Jeffersonville, IN and the Office of Survey and Census Analytics – based at Census HQ.
 21 During the 2020 Census, I also oversee the temporary data collection organization, including the
 22 6 Regional Census Centers, 248 Area Census Offices and the two Paper Data Capture Centers.

23 **III. Compliance with September 5, 2020 Temporary Restraining Order (TRO)**

24 4. The job of the Field Directorate for the 2020 Census is to collect and process data
 25 directly from the American public who chooses not to self-respond or who cannot be reached via
 26 a mailed invitation to respond. This is a massive task – involving recruiting millions of applicants
 27 and building an infrastructure to rapidly hire, train and deploy hundreds of thousands of
 28 employees, including systems, offices, and logistics. For the 2020 Census, the Census Bureau

1 currently employs over 200,000 enumerators working in 248 Area Census Offices (ACOs). These
2 enumerators are supervised by over 19,000 Crew Field Supervisors (CFSs), who in turn are
3 supervised by over 2,000 Census Field Managers (CFMs). Many of the CFSs are first-time-ever
4 federal employees; while many have supervisory experience, virtually none began with more than
5 minimal experience managing a census.

6 5. On Saturday evening, September 5, I sent notification via email that "...a federal
7 district court for the Northern District of California issued a temporary restraining order at 9:29
8 PM EDT on 9/5/2020 in the case of National Urban League v. Ross, No. 20-05799" to all field
9 data collection managers working on the 2020 Census. In this notice, I added "The Bureau and
10 the Department are also in the process of preparing additional guidance and will distribute that
11 guidance shortly."

12 6. On Monday morning (12:02am Eastern), I sent the document titled "Guidance for
13 Field Managers related to Action Required following the 9/5 Court Order" to the Associate
14 Director for Field Operations, the 6 Regional Directors, the Chief of the Field Division and the
15 Director of the National Processing Center. A copy of the document was attached to Defendants'
16 filing in this case on September 8, 2020, ECF No. 86. I instructed them not to share the document
17 until we had a chance to discuss it later that morning.

18 7. At 10am Eastern on Monday morning, I held a call with the Regional Directors, the
19 Chief of Field Division and the Director of the National Processing Center to discuss the document.
20 The Associate Director for Field Operations also joined that call.

21 8. At 10:30am Eastern on Monday (9/7/2020), I held a call with the operations staff
22 at Field Headquarters to discuss the document. I forwarded the document for them to review in
23 advance of this meeting.

24 9. At 11:00am Eastern on Monday (9/7/2020), I joined a previously scheduled call
25 with all regional data collection managers to discuss the document. The document was attached
26 to the meeting invite and distributed via email before the call.

27 10. Since delivering the document, I have had numerous conversations with various
28 field managers about aspects of the instructions in the document, both in the regions and at

1 Headquarters. This includes daily meetings with Regional Directors and key operational
2 managers.

3 11. As reflected in the guidance referenced in paragraph 6 above (and I understand was
4 previously provided to the court on 9/8/2020), we have implemented the TRO by, among other
5 things, directing that no CFS area can be moved into closeout procedures until it reaches 90%
6 completion. The Census Bureau is continuing to work across the nation to obtain responses from
7 all housing units, and has begun closeout procedures for CFS areas with at least 90% completion,
8 consistent with what we indicated to the Court.

9 **IV. Specific Complaints**

10 12. In regard to communications sent to the court, it appears there are 5 distinct
11 complaints referred by the court for review.

12 13. In the first complaint – “Austin, TX” - an enumerator alleges he was assigned to a
13 new Census Field Supervisor and was directed to artificially reduce his availability to conduct field
14 work. I instructed staff in the Dallas region to investigate the issue. Through the course of their
15 investigation, which included conversations with the Census Field Manager (CFM) and Census
16 Field Supervisors (CFS), they discovered this was a miscommunicated direction by a new CFS.
17 The CFS was not trying to limit work availability – rather to ensure enumerators entered at least
18 one hour of availability. The CFM advised the CFSs that the only way a manual assignment can
19 be made using the Census Field Operational Control System is if an Enumerator has at least one
20 hour of availability entered. During this phase of the operation, the system which issues automatic
21 assignments does not capture all work requirements, thus manual assignments are required.
22 Enumerators who desired to take a day off from work should have entered zero work availability.
23 The CFS in question, truncated these instructions to a single text message to “set your availability
24 tomorrow through Monday as either NOT AVAILABLE or 1 hour.” Fifteen enumerators received
25 this text guidance. Based on the hours of work availability entered by all 15 enumerators, it
26 appears they understood the guidance as the CFM intended – as all entered more than one hour of
27 work availability. In fact, the individual raising the concern entered 8 hours of work availability
28 and the average work availability for all 15 enumerators in this CFS area was 8 hours.

1 14. As of September 12, 2020 – the date referenced in the complaint – the Austin, TX
2 ACO was 93.05% complete with the NRFU production work.

3 15. As to the reference to “...the email raises questions about the Census Bureau’s own
4 post-TRO directive to “(c)ontinue to have staff travel...”, there are thousands of people traveling
5 to complete enumeration assignments both within state and out of state as evidenced by reports
6 from our travel systems – over 5,600 people were on overnight travel status for Decennial work in
7 the two-week period between August 27 and September 10, 2020.

8 16. In the second complaint – “New York” – an enumerator alleges “...she and other
9 enumerators in her group were told to cease counting and to relocate to unspecified southern
10 states...”. Without knowing the enumerator’s specific location, it is difficult to determine where
11 she and her group were working. However, as of September 12, 2020, the Brooklyn #4 Area
12 Census Office was 76.11% complete with the NRFU production work. Six CFS Areas had reached
13 90% completion of their cases. The reference to not being assigned work during the week of
14 September 7 may be related to the hours of work availability entered – and the available workers.
15 The use of optimized assignments on the 2020 Census matches the availability of workers to the
16 most efficient and best time to contact addresses. Early in the operation, there is generally work
17 for everyone. As the work is completed, the available cases diminish – and the remaining cases
18 are assigned to those who have work availability and a geographic location which yields the best
19 chance of completing the case. This means that some enumerators will not receive work
20 assignments in an area if they limit work availability or do not live in proximity to the remaining
21 cases. When this happens, we ask enumerators if they would like to work in other locations. We
22 do not require enumerators to work outside of their Area Census Office – we ask for volunteers to
23 do so.

24 17. In the third complaint – “Illinois” – an enumerator in the Chicago area reported that
25 the “Optimizer” software system had been down for the previous three weeks. Based on our files,
26 this is not accurate. Aside from planned maintenance windows, the “Optimizer” has been running
27 since the beginning of the 2020 Census NRFU operation. I verified this information with the staff
28 who monitor and manage this system and confirmed the logs which monitor system “up time”

1 reflect no unexpected outages. It is likely the reduced workload is the result of the circumstances
2 cited in paragraph 15, but without specific information about the enumerator or the location, I am
3 not able to confirm this. There are five Area Census Offices in the Chicago metropolitan area and
4 they range in completion from 92.11 to 83.02% complete with the NRFU production work.

5 18. In the fourth complaint – “California” – there appear to be three concerns raised.
6 First, there is a reference to a Census Field Supervisor in Southern California claiming the Census
7 Bureau was deactivating many enumerators in the weeks leading up to the TRO. While hard to
8 investigate further without specific information, this is likely true as it is consistent with the
9 operational guidance provided for the NRFU operation. Regardless of the definition of “Southern
10 California”, there are numerous CFS areas throughout the area that had met the threshold for Phase
11 2 and Closeout operations prior to the TRO. In these operations – prior to the TRO – managers
12 were instructed to keep a subset of the best performing enumerators commensurate with
13 completing the final cases and release the remaining enumerators who were either low performing
14 or did not want to work elsewhere. Since the implementation of the TRO, we are only separating
15 enumerators who voluntarily resign or those with a conduct or performance problem.

16 19. The second item referenced in “California” is the Optimizer was down for several
17 weeks. As discussed in paragraph 16, we have information to the contrary.

18 20. The third item referenced in “California” is the reference to a news story where
19 “. . . a California field manager instructed supervisors to rate enumerators with letters “A,” “B,”
20 and “C,” and to terminate those with a “C” rating. I was first made aware of this issue when the
21 reporter contacted our Public Information Office with the allegation on Wednesday, September 9,
22 2020. At that time, there was no reference to California, so I contacted all Regional Directors to
23 determine whether there was a directive to do this or whether there was evidence of this happening.
24 I did not receive any information to corroborate this allegation. Once I learned that the complaint
25 arose from an office in California, I contacted the Regional management staff in the Los Angeles
26 region who oversee California to determine again whether any specific directive or instruction had
27 been given to do this. They confirmed that there was no instruction given, nor was there evidence
28 of this taking place.

21. In the fifth complaint – “Tennessee” – “. . . An enumerator in Tennessee reported numerous problems with his Bureau issued technology, including malfunctioning GPS and being totally locked out of his device altogether. He also confirmed problems with the Optimizer software.” Again, it is difficult to investigate fully without additional information. There have been isolated reports of device problems with the iPhone used to conduct NRFU assignments. However, the vast majority of the nearly 325,000 devices registered to NRFU staff have functioned as designed. I reviewed the log of device problems reported for the Area Census Offices in Tennessee and did not notice any unusual pattern of activity. The most common problem reported was an issue related to forgotten passwords. As for the reference to the Optimizer, it is difficult to know what “confirmed problems with the Optimizer” means. There are four offices in Tennessee, with NRFU production completion rates ranging from 92.69% to 72.86%. As to the reference to the personnel issue and a complaint filed with the Office of Inspector General, I am confident that will be appropriately resolved.

22. During the hearing on September 14, 2020, the Court noted the statement from my colleague, Dr. Albert Fontenot, that we are facing significant risks to complete all states by this date, due to factors beyond the Census Bureau’s control, such as wildfires in the western part of our country, major storms, resurgence of COVID-19 restrictions and other similar disruptions, and asked for an explanation of how we are handling these situations. Each circumstance is unique and we are tailoring an approach for every situation. The safety of our field enumeration staff is critical. Since the early stages of COVID, we have worked with the Centers for Disease Control and Prevention (CDC) and others in the federal health community to ensure we are keeping our staff and the public safe. With the incorporation of personal protective equipment (PPE) for our workforce, modified procedures for training and field enumeration and public messaging about COVID and the Census, we are taking numerous steps to conduct the 2020 Census in a COVID environment. In areas where there is extreme immediate danger – most recently the areas in Oregon, for example, where wildfires have triggered hazardous air quality warnings – we suspend field visits until it is safe to resume. In others, we advise staff to follow the precautions of local officials. In lieu of making personal visits, we have developed the ability to complete telephone

1 interviews. We also continuously promote self-response – using social media and our partner
2 networks. We use Mobile Questionnaire Assistance (MQA) staff to provide self-response options
3 to people by visiting them in evacuation areas. In situations where it is warranted and allowed
4 under our procedures, we use proxy respondents and make use of high-quality administrative
5 records. We are using every authorized and tested enumeration tool at our disposal to complete
6 work in these areas.

7 23. The Census Bureau has been public about its progress toward completing the
8 enumeration. We provide information on the progress of self-response by the American public as
9 well as the status of the NRFU operation. Information on our 2020census.gov website shows, for
10 example, that we have completed 84.8% of the NRFU workload for the San Jose Area Census
11 Office and 94.5% of the households in California have been enumerated. This information is
12 updated daily and is available for all ACOs.

13
14 I have read the foregoing and it is all true and correct.

15 DATED this _15_ day of September, 2020
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18 _____
19 James T. Christy

20 Assistant Director for Field Operations

21 United States Bureau of the Census
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