EXHIBIT D

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK IMMIGRATION COALITION, *et. al*, Plaintiff, v. UNITED STATES DEPARTMENT OF COMMERCE, *et. al*, Defendant.	Civil Action No. 1:18-cv-05025-JMF Hon. Jesse M. Furman

DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFFS' THIRD SET OF INTERROGATORIES

Pursuant to Federal Rules of Civil Procedure 26 and 33 and the Local Rules of this Court Defendants, the United States Department of Commerce and Wilbur Ross, Secretary of Commerce, in his official capacity, by and through their attorneys of record, provide the following objections and response to Plaintiffs' third set of interrogatories.

OBJECTIONS WHICH APPLY TO ALL REQUESTS FOR ADMISSION

1. Separate and apart from the specific objections set forth below, Defendants object to any discovery taking place in this case to the extent such discovery is brought pursuant to claims purportedly under the Administrative Procedure Act, as resolution of any such claims should be based upon the administrative record in this case.

2. Each and every response contained herein is subject to the above objection, which applies to each and every response, regardless of whether a specific objection is interposed in a specific response. The making of a specific objection in response to a particular request is not intended to constitute a waiver of any other objection not specifically referenced in the particular response.

EXHIBIT
PTX-236

OBJECTIONS TO DEFINITIONS

1. Defendant object to the inclusion of definitions for any term not relied on in these interrogatories. Any requirement that Defendant respond to such definitions in the abstract is not proportional to the needs of the case and the burden of such a response outweighs its likely benefit, which is none. Defendant does not hereby waive any future objection to the definition of such terms, or waive the right to employment of Defendant's own definition of such terms.

OBJECTION TO INSTRUCTIONS

1. Defendants object to instructions number 1, 3, 4, 5 to the extent they seek to impose requirements beyond those required by Federal Rules of Civil Procedure.

2. Defendants object to instruction number 3 to the extent it requires Defendants to "identify each PERSON or organization having knowledge of the factual basis, if any, upon which the objection, privilege, or other ground is asserted," as such an instruction exceeds the requirements of Federal Rule of Civil Procedure 33 and constitutes a discrete subpart.

3. Defendants object to instruction numbers 1, 4 and 5, to the extent they seek the production of documents, which goes beyond the scope of the requirements of Federal Rule of Civil Procedure 33. Defendants will not produce documents in response to Plaintiffs' third set of interrogatories. Defendants further object to instructions 4 and 5 to the extent they seeks information in a privilege log that exceeds the requirements of Federal Rule of Civil Procedure 26(b)(5).

DEFENDANTS' RESPONSES TO PLAINTIFFS' INTERROGATORIES

INTERROGATORY NO. 5

With regard to draft and final response to Question 31 in the "Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Reinstatement Request" found at AR 2303-2304 and AR 196, please IDENTIFY:

a. all persons who worked on any draft of the response;

b. all persons outside the CENSUS BUREAU who worked on any draft of the response;

c. the date on which each person outside the CENSUS BUREAU who worked on the response first worked on the response; and

d. the person or persons responsible for removing discussion of the "well-established process" when adding or changing content of the DECENNIAL CENSUS.

OBJECTIONS: Defendants incorporate by reference the above objections to the definitions and instructions. Defendants further object that this request is irrelevant to any claim or defense and not proportionate to the needs of the case. Defendants further object to Plaintiffs' interrogatory number five on the grounds that it constitutes four discrete subparts. Accordingly, Defendants will treat this interrogatory as four discrete interrogatories.

RESPONSE:

a. Ron Jarmin, Enrique Lamas, Burton Reist, Christa Jones, Michael Walsh, and Sahra Park-Su.

b. Michael Walsh and Sahra Park-Su.

c. On or about February 23, 2018.

d. Once Census and the Department of Commerce started to confer on the question and realized that there was no process for adding such a question to the 2020 Decennial because it had not been done in recent memory, the individuals identified in response to part "a" of this interrogatory collectively approved the final language.

INTERROGATORY NO. 6

For each Request for Admission, to the extent that your responses is anything other than unqualified admissions, for each such response please identify with specificity all facts upon which you base your denial or qualified admission of any portion of the requested admission, including identifying with specificity all documents, events, occurrences, or conduct on which you base your denial or qualified admission.

OBJECTIONS: Defendants incorporate by reference the above objections to the definitions and instructions. Defendants further incorporate by reference each and every objection made to Plaintiffs' request for admissions. Defendants further object that this interrogatory asks for the basis for responses that are "anything other than unqualified admissions" to requests for admissions that are not relevant to any claim or defense and not proportionate to the needs of the case. Many of Plaintiffs' requests for admissions have no relevance as to whether the Secretary of Commerce's decision to reinstate a citizenship question is arbitrary or capricious or whether his decision violates equal protection principles.

Defendants further object to this interrogatory as constituting multiple, discrete subparts. *Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 445-46 (C.D. Cal. 1998) (holding that an interrogatory that asks for the basis for the denial of each request for admission constitutes multiple interrogatories); *Jovanovich v. Redden Marine Supply, Inc.*, No. C10-924, 2011 WL 4459171,*2-3 (W.D. Wash. Sept. 26, 2011) (same); *Estate of Manship v. United States*, 232 F.R.D. 552, 557 (M.D. La. 2005) (same); *American Chiropractic Assoc. v. Trigon Healthcare, Inc.*, No. 1:00-CV-00113, 2002 WL 534459, *3 (W.D. Va. 2002) (same); *Commodores Enter. Corp. v. McClary*, No. 6:14-cv-1335, 2015 WL 12843874 (S.D. Fla. Nov. 6, 2015) (same). Furthermore, Plaintiffs' request that Defendants provide up to 141 separate interrogatory responses is unduly burdensome and not proportionate to the needs of the case. Accordingly, because Defendants do not stipulate to responding to more than 25 interrogatories in total, *see* Federal Rule of Civil Procedure 33(a)(1), and interrogatory 5 constitutes four discrete subparts, Defendants will only respond to the first sixteen requests for admissions that are not unqualified admissions.

RESPONSES:

Interrogatory No. 9 (request for admission no. 1): The reason Defendants did not provide an unqualified admission to request for admission number 1 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 10 (request for admission no. 2): The reason Defendants did not provide an unqualified admission to request for admission number 2 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 11 (request for admission no. 3): The reason Defendants did not provide an unqualified admission to request for admission number 3 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 12 (request for admission no. 4): The reason Defendants did not provide an unqualified admission to request for admission number 4 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 13 (request for admission no. 5): The reason Defendants did not provide an unqualified admission to request for admission number 5 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 14 (request for admission no. 6): The reason Defendants did not provide an unqualified admission to request for admission number 6 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 15 (request for admission no. 7): The reason Defendants did not provide an unqualified admission to request for admission number 7 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 16 (request for admission no. 8): The reason Defendants did not provide an unqualified admission to request for admission number 8 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 17 (request for admission no. 9): The reason Defendants did not provide an unqualified admission to request for admission number 9 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 18 (request for admission no. 10): The reason Defendants did not provide an unqualified admission to request for admission number 10 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 19 (request for admission no. 11): The reason Defendants did not provide an unqualified admission to request for admission number 11 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 20 (request for admission no. 12): The reason Defendants did not provide an unqualified admission to request for admission number 12 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 21 (request for admission no. 13): The reason Defendants did not provide an unqualified admission to request for admission number 13 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 22 (request for admission no. 14): The reason Defendants did not provide an

unqualified admission to request for admission number 14 is because Defendants lack any reasonable means of verifying the accuracy of statements purportedly made by a private party not within the control of the United States at the time the statement is said to have been made.

Interrogatory No. 23 (request for admission no. 15): The reason Defendants did not provide an unqualified admission to request for admission no. 15 is that Defendants lack any reasonable means of verifying whether statements attributed to President Donald J. Trump as reported by TIME Magazine are accurately reported.

Interrogatory No. 24 (request for admission no. 16): The reason Defendants did not provide an unqualified admission to request for admission no. 16 is because is that Defendants lack any reasonable means of verifying whether statements attributed to President Donald J. Trump as reported by the media are accurately reported.

Interrogatory No 25 (request for admission 17): The reason Defendants did not provide an unqualified admission to request for admission no. 17 is because the request for admission did not accurately characterize President Donald J. Trump's January 27, 2017 executive order. An accurate characterization of that executive order is reflected in Defendants' response to Plaintiffs' request for admission no. 17.

As to Interrogatories, see Verification page *infra*.

As to objections:

Respectfully submitted,

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Counsel for Defendants

Dated: October 23, 2018

CERTIFICATION OF EARL COMSTOCK

I certify under penalty of perjury that the foregoing responses to Plaintiffs' Interrogatories No. 5 and 6, both of which contain multiple discrete subparts that are not separately numbered, are true and correct to the best of my knowledge, information, belief, understanding, and recollection.

Dated: 10/12/2018

Earl Comstock