

EXHIBIT C

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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THE UNITED STATES OF AMERICA, :
Plaintiff, :
vs. : No. 18-264
THE STATE OF CALIFORNIA; :
EDMUND GERALD BROWN, JR., :
Governor of California, in his:
Official Capacity; AND XAVIER :
BECERRA, Attorney General of :
California, in his Official :
Capacity, :
Defendants. :

- - - - - x
VIDEOTAPED
DEPOSITION OF: THOMAS HOMAN
DATE: Tuesday, April 10, 2018
TIME: 10:12 a.m.
LOCATION: Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
REPORTED BY: Denise M. Brunet, RPR
Reporter/Notary

A P P E A R A N C E S

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3 On behalf of the Plaintiff:

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14 On behalf of the Defendants:

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24
25 (Appearances continued on the next page.)

1 APPEARANCES (continued):

2

3 On behalf of the Defendants (continued):

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15 ALSO PRESENT: Rene E. Browne

16 Michael P. Davis

17 Michael F. Arnold

18 Moria Skinner

19 Julie Laughlin

20 Dan Reidy, Videographer

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C O N T E N T S

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Counsel for Defendants	7
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(*Exhibits attached to the transcript.)

1 Q You just stated that it costs more money
2 for the government to send additional agents. Do
3 you have an estimate of how much more money it
4 costs?

5 A I don't know the figure offhand. We --
6 we did operations recently in southern California
7 and in northern California. We did three
8 operations this -- in the past several months in
9 California. We had to send many detail agents to
10 augment existing staff to do these operations.
11 I'm certain we track those expenses. I don't know
12 off the top of my head. We certainly can provide
13 them.

14 Q Do you attribute the increase in ICE
15 enforcement activities in California to AB 450?

16 A I think AB 450 is requiring us to work
17 harder and less efficient than prior to the
18 enactment of 450.

19 Q Can you please describe why you believe
20 that?

21 A Well, a couple of things. We just did an
22 I-9 operation in California, and I recently
23 learned that, for instance, one company in San
24 Francisco did not want to supply the I-9 forms per
25 the notice of inspection. It was the delay in

1 giving us the I-9 forms until the company -- the
2 company felt like they would be in violation of
3 450, so they got an attorney. We had to do an
4 administrative subpoena to get the documents.
5 That caused more work.

6 There seemed to be confusion on what the
7 employer thought between 450 versus what the
8 federal requirements are. So we spent more time
9 in working that one case. That's one I was
10 briefed on specifically.

11 Q What company are you referring to?

12 A I don't have that number offhand.

13 Q The name offhand?

14 A I don't know it offhand.

15 Q Okay. When did this I-9 operation
16 relating to this company occur?

17 A Within the past eight weeks. I don't
18 know the exact dates. We have a rolling I-9
19 inspection throughout the country. California
20 was -- I think we've already completed the first
21 phase in California. So several weeks ago.

22 Q And did the company specifically inform
23 you that they did not want to comply with the I-9
24 inspection process?

25 A The information I received from HSI

1 leadership was that the company would not --
2 didn't think they had to comply with the notice of
3 inspections to give the I-9s within the three days
4 required. They thought they were going to be in
5 violation of 450.

6 They contacted an attorney. We actually
7 did an administrative subpoena, and we got the
8 I-9s after additional work. That is what was
9 relayed to me.

10 Q Who relayed that to you?

11 A Derek Benner, the acting executive
12 associate director for Homeland Security
13 investigations.

14 Q And who relayed that to Derek?

15 A The e-mail was -- first, Derek verbally
16 told me that he followed up with an e-mail. The
17 e-mail was from Derek. And their staff below -- I
18 don't know who -- I'm sure the e-mail split up
19 between -- we have three SACs, special agents in
20 charge: San Francisco, L.A. and San Diego. So it
21 was -- I'm sure he got it from the SACs, but I do
22 not know for sure because I did not ask him that
23 question.

24 Q Do you know if Derek obtained that
25 information directly from the company?

1 legislation as a law enforcement officer -- and
2 that certainly would have a bad effect on our
3 mission, what we're trying to do.

4 Q Can you please describe what you mean by
5 bad effect on our mission of what we're trying to
6 do?

7 A Generally, even back in my day, when
8 we -- when we had this discussion with employers,
9 we like to do it in a private setting because
10 information may come up -- certainly PII
11 information on employees; you know, they provide
12 social security numbers, personal information.
13 Employers, in my experience, would much rather
14 meet with, you know, ICE officers in private
15 settings, especially if customers are going to
16 come into the public area. They don't want to
17 see -- their customers see them having a
18 discussion with law enforcement.

19 I've been a law enforcement officer for
20 34 years. I can just tell you, doing things like
21 this in a private setting, we usually will
22 encounter better cooperation and be able to find
23 other things out when we're in a private setting.

24 Victims of trafficking certainly aren't
25 going to come forward in a public setting. But if

1 you're in a private setting talking to an
2 employer -- an employee that may be a victim of
3 trafficking or abuse or peonage or something were
4 more apt to tell the officer that in a private
5 setting rather than -- not in a public area.

6 So I just -- as a law enforcement
7 officer, we -- that's why generally we do things
8 like this in a private setting, to have
9 confidential conversations away from the general
10 public. And I think not only a law enforcement
11 officer. Whoever we're talking to tends to
12 cooperate better in a private setting. That's
13 just my opinion as a law enforcement officer.

14 MR. KISOR: Before you go on to your next
15 question, I think we're about at the one-hour
16 mark. Is it all right if we take a break?

17 MS. CHUANG: Yes. How long would you
18 like to take a break for?

19 MR. KISOR: Five, ten minutes.

20 MS. CHUANG: That works. Thank you.

21 THE VIDEOGRAPHER: We're going off the
22 record. This ends media unit number 1. The time
23 on the video is 11:12 a.m. We're off the record.

24 (Whereupon, a short recess was taken.)

25 THE VIDEOGRAPHER: This begins media unit

1 gather better information, better cooperation in a
2 private setting.

3 Q And you mentioned speaking to other law
4 enforcement agencies and officers. Who did you
5 speak to?

6 A Spoke to Phil Miller, spoke to Matt
7 Albence, spoke to Derek Benner. I've been doing
8 this 34 years. I could spend the next four
9 hours -- I used to do worksite investigation as a
10 special agent in Phoenix back in 1988, 1989 when
11 we -- probably '95, '96. When I was a special
12 agent, I did worksite investigation. I have
13 served notice of inspections. And so I have
14 firsthand knowledge how that works and how the
15 interviews go and what you gather from the
16 interviews. I just think, based on my experience
17 and my knowledge, I think AB 450 is going to
18 prevent us from doing much of our job.

19 And I certainly think it's going to have
20 an impact on identifying possible victims of
21 trafficking and peonage and employer abuse if we
22 can't have discussions in private.

23 Q You mentioned three individuals before
24 that you spoke to: Phillip Miller, Derek -- I
25 forget his last name -- and another individual.

1 Did you implement this change of policy
2 for ICE?

3 A It's my understanding it's still being
4 worked on.

5 Q And when it's still being worked on, do
6 you mean it's in draft form?

7 A It's the privacy office -- last I was
8 briefed on this, the policy office is working on
9 changes of the privacy policy.

10 Q Do you have an estimated time frame for
11 the completion and approval of the new privacy
12 policy?

13 A No.

14 Q So those -- in your understanding of this
15 policy change, does it impact privacy protections
16 for lawful permanent residents?

17 A There's privacy protection for everybody
18 in our custody. But there's a -- I think there's
19 an elevated concern for those who are lawful
20 permanent residents. And of course, again, for
21 the victims of domestic abuse, trafficking, not
22 only do they have privacy protection, they
23 actually have statutory protections.

24 But again, I know what this says, but I
25 can tell you that I'm not a policy expert, but a

1 policy expert has reviewed this affidavit and
2 agreed with the factual contents of the affidavit,
3 that this California legislation will put us at
4 odds with privacy policy and statutes. And that's
5 why it's in the affidavit.

6 Q Under what circumstances would lawful
7 permanent residents be detained in civil detention
8 facilities?

9 A If they're removable. We detain people
10 for removable purposes. So if a lawful permanent
11 resident got convicted of certain aggravated
12 felonies, serious offenses, that would put their
13 lawful permanent resident status at risk if they
14 get convicted of something like that. Let's say
15 an LPR gets convicted of murder. Certainly
16 removable. So we would detain them for removable
17 purposes.

18 Q Do you understand this policy change
19 discussed in section G of the February 20th
20 memorandum to impact privacy protections for
21 individuals who are not U.S. citizens and not
22 lawful permanent residents?

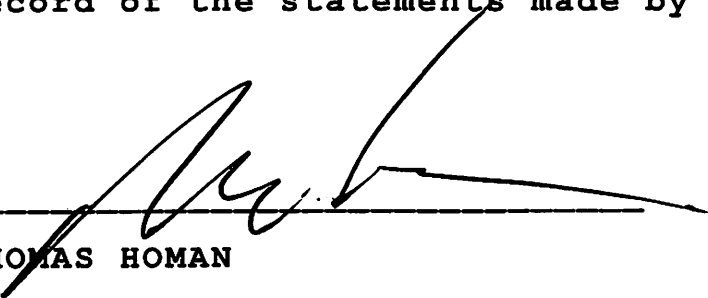
23 A Can you repeat the question, please?

24 Q Do you understand that the policy change
25 referenced in section G of this February 20th

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ACKNOWLEDGMENT OF DEPONENT

I hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition and except for any corrections or changes noted on the errata sheet, I hereby subscribe to the transcript as an accurate record of the statements made by me.



THOMAS HOMAN

4-24-18

DATE

E R R A T A S H E E T

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IN RE: U.S.A. vs. STATE OF CALIFORNIA

DATE: 4/10/2018

PAGE LINE CORRECTION AND REASON

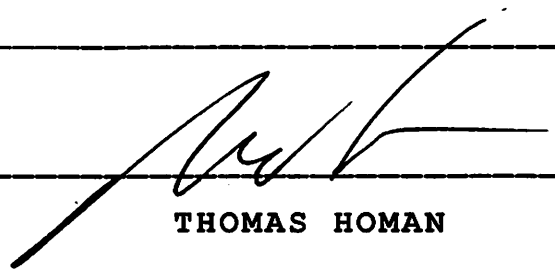
110 21 "cas should be care"

113 17 "icis" should be "cis"

114 9 "are citizers" should be "are not citizers"

126 6 "note" should be "not"

4-24-18



(DATE)

THOMAS HOMAN