

*U.S. Dep't of the Treas. v. Black*  
No. 1:12-mc-00100-EGS

Pet. Renewed Mot. Quash

Ex. W



requiring review and processing before production to plaintiffs. The total page count exceeded 1.5 million.

4. As PBGC conducted its review, it became apparent that PBGC had underestimated the time the review would require when PBGC initially told the Magistrate Judge that the production could be completed in 120 days. PBGC contacted counsel and asked them to agree to a limitation on the scope of their demands to allow PBGC to complete production more quickly and reasonably, but they declined, insisting PBGC locate and produce every non-archived document containing the word “Delphi.” Plaintiffs’ counsel did agree not to require PBGC to search archived electronic documents – that is, documents stored on backup tapes in PBGC’s computer system – as it is much more difficult and time-consuming to obtain this material.

5. PBGC ultimately entered into a contract with a litigation support firm to assist in reviewing the documents. At various times, as many as 50 contract attorneys were reviewing documents on PBGC’s behalf. PBGC explained the situation to plaintiffs’ counsel, and with their welcome cooperation, worked out an agreement for a rolling production of documents. To expedite production, PBGC told plaintiffs’ counsel the agency would first identify and produce responsive, non-privileged documents, and then turn to the process of logging privileged documents. This process was described in detail in the August 20, 2012 Joint Discovery Report and Stipulated Order signed by plaintiffs. *See* Exhibit A, Joint Discovery Report and Stipulated Order, at fn. 4 (filed as Docket No. 215).

6. PBGC has made the following rolling productions to plaintiffs:

Date	Bates Number	Page Count
06/07/2012	PBGC-BL-0000001 to PBGC-BL-0062059	62,059
06/15/2012	PBGC-BL-0062060 to PBGC-BL-0171363	109,303
07/03/2012	PBGC-BL-0171364 to PBGC-BL-0216831	94,274
08/17/2012	PBGC-BL-0216832 to PBGC-BL-0265638	48,806
09/07/2012	PBGC-BL2-00000001 to PBGC-BL2-00310112	310,112
09/14/2012	PBGC-BL2-00310113 to PBGC-BL2-00538687	228,574
10/26/2012	PBGC-BL2-00538688 to PBGC-BL2-00714585	175,897
12/03/2012	PBGC-BL2-00714586 to PBGC-BL2-00736828	22,242
12/20/2012	PBGC-BL2-00736829 to PBGC-BL2-00769214	32,385

As the chart above reflects, PBGC has collected, reviewed, and produced more than a million pages of responsive, non-privileged documents to plaintiffs.

7. To date, PBGC has spent hundreds of hours of attorney time and nearly \$2 million in contractor costs to comply with plaintiffs' discovery requests.

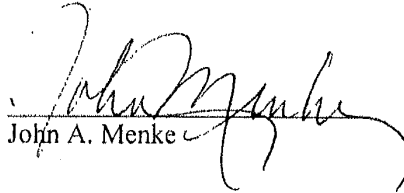
8. PBGC has completed its initial review of all potentially responsive documents it collected. PBGC is now in the process of reviewing the documents initially determined to be privileged and is creating a log of the privileged material as described in Fed. R. Civ. P. 26(b)(5)(A).

9. PBGC regularly communicated with counsel to the plaintiffs regarding the progress on the document production, often on a monthly basis.

10. The plan census data containing sensitive personally identifiable information sought by plaintiffs was neither in PBGC's ownership nor control at the time of the termination decision, nor did it play any role in that decision.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 13<sup>th</sup> day of March, 2013, in Washington, D.C.

  
John A. Menke