

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
CAUSE OF ACTION INSTITUTE,)	
)	
Plaintiff,)	
)	
v.)	Civ. A. No. 19-2698 (DLF)
)	
U.S. DEPARTMENT OF COMMERCE,)	
)	
Defendant.)	
_____)	

**DEFENDANT’S MOTION TO CONTINUE ORAL ARGUMENT IN ANTICIPATION
OF IMPENDING MOOTNESS OF CROSS-MOTIONS FOR SUMMARY JUDGMENT**

Defendant, Department of Commerce (“Commerce”), by and through counsel, respectfully requests that oral argument on the parties’ cross-motions for summary judgment be continued in light of their impending mootness. Specifically, Commerce hereby notifies the Court of its present intention to release the Uranium Report, whose status as a deliberative document protected by FOIA Exemption 5 is the subject of pending cross-motions for summary judgment before the Court, including oral argument scheduled for tomorrow, Thursday, July 29, 2021 at 10:30 am.¹ Release of the report will make the central dispute in the case moot.

Defendant has sought Plaintiff’s consent to this request but, because of time sensitivity of the matter and its potential impact on the Court’s schedule, undersigned counsel believed it necessary to apprise the Court of these breaking developments out of respect for management of the Court’s docket and time before the parties could iron out and seek client approvals that might

¹ On July 29, 2021, Commerce intends to publish the Uranium Report on its website and, on August 2, 2021, it intends to publish the report in the Federal Register. Undersigned counsel has been authorized to represent that the Office of the President has agreed with this course of action.

otherwise result in a motion by consent. Defendant proposes that the oral argument be continued to a date to be determined by the Court after its receipt and consideration of a Joint Status Report to be filed by August 9, 2021, which report should confirm release and publication of the Uranium Report and set forth the parties' respective positions about the need for further litigation.

Immediately prior to filing an earlier version of this motion, undersigned counsel received an email from Plaintiff's counsel requesting that the following language be included in Defendant's motion: "While Plaintiff is heartened to hear that Defendant intends to release the Uranium Report. There are two other fully-briefed issues before the Court—namely, the adequacy of Defendant's search and Plaintiff's policy-and-practice claim—both of which Plaintiff is eager to present to the Court during oral argument as scheduled tomorrow, if it would still prove useful to the Court's consideration of the pending cross-motions." Defendant believes that these residual issues (which are fully-briefed and do not necessitate oral argument) were to have been abandoned upon the release of Auto and Uranium Reports. *See* Joint Status Report of April 8, 2021 (ECF No. 33) ("Plaintiff has made settlement contingent upon the discretionary releases of the Secretary's Section 232 Reports that are the subjects of its lawsuits here and Civ. A. No. 19-778."). The course of action proposed by Defendant permits the parties to iron out these differences while preserving the status quo in short order. However, ultimately, Defendant defers to the Court's determination as to the importance of oral argument to the residual issues should they be deemed to survive the parties' agreement for resolving the case.

Dated: July 28, 2021

Respectfully submitted,

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