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14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF ARIZONA**

16 Nader Eshaghian,

17 Petitioner,

18 v.

19 Chris Howard, *et al.*,

20 Respondents.

No. CV-25-04141-PHX-DWL (ESW)

**RESPONSE TO RENEWED MOTION  
FOR DISCOVERY**

21 Respondents, by and through counsel, hereby file this response to Petitioner's  
22 renewed Motion for Leave to Conduct Discovery (Doc. 23). In this Motion, Petitioner asks  
23 this court, essentially, to order Respondents to produce the documents described in the four  
24 categories of agreed production outlined in the parties' Joint Status Report (Doc. 17).  
25 Respondents file this Response to clarify matters for the Court and to propose a procedure  
26 from the FRCP that may help streamline these discovery processes in the future.

27 The parties came to an agreement on discovery on November 18, 2025, and they  
28 filed a Joint Status Report the following day to disclose the substance of this agreement to  
the Court. *See* Joint Status Report (Doc. 17). Specifically, the parties agreed in total that  
Respondents would produce three categories of documents: any "finalized periodic custody  
reviews;" any "final, formal determinations" made under 8 C.F.R. § 241.13 and § 241.14

1 regarding whether Respondents have “a significant likelihood of removing Mr. Eshaghian  
2 in the reasonably foreseeable future;” and a catch-all request for all documents from  
3 Petitioner’s A-File “that pertain to Respondents’ ability to remove Mr. Eshaghian in the  
4 reasonably foreseeable future, specifically including documents that relate to prior or  
5 current removal efforts.” Joint Status Report at 2–3. On a fourth category of discovery  
6 (specifically, communications between ICE and diplomatic representatives of the  
7 government of Iran), the parties agreed that the undersigned would determine whether  
8 Respondents had any responsive documents. *Id.* If there were responsive documents, the  
9 undersigned agreed that he would confer with Petitioner’s counsel regarding any claim of  
10 privilege that may arise. *Id.*

11 Respondents provided thirty-four pages of documents to Petitioner, comprised of  
12 Decisions to Continue Detention, Notices of Custody Review, Notices of Revocation of  
13 Release, Orders of Supervision, and a Release Notification. *See* Renewed Motion at 4.  
14 These documents constitute all the documents that are responsive to the requests for  
15 “finalized periodic custody reviews” and “final, formal determinations” regarding  
16 removability.

17 Respondents provided these documents to the undersigned, but it was unclear  
18 whether Respondents intended to send further documents. The undersigned requested  
19 clarification from Respondents, and in the meantime, he sent the documents he had to  
20 Petitioner’s counsel. The undersigned intended to convey that he could not at that time  
21 confirm that no further documents would be produced, but that he would determine quickly  
22 whether there were any further documents and, if any existed, that he would supplement  
23 production with those documents. The undersigned regrets any miscommunication that  
24 may have occurred.

25 Respondents have since confirmed that there are only two responsive documents  
26 that were not produced: one email sent to diplomatic representatives of Iran to request a  
27 consular interview for Petitioner, and a copy of a formal request made to the Iranian  
28 government in 2000 for travel documents. Respondents claim that both documents are

1 subject to privilege, including the state secrets privilege and the diplomatic  
2 communications privilege. After the filing of Petitioner's motion, and in order to clarify  
3 the state of responsive documents and production of discovery with Petitioner's counsel,  
4 Respondents served a formal Response to Requests for Production of Documents. The  
5 Response pointed to the documents disclosed in response to the requests, described and  
6 asserted privilege over two responsive documents, and confirmed that Respondents had no  
7 further responsive documents. The undersigned is willing to discuss these assertions of  
8 privilege with Petitioner's counsel to see if the parties can resolve the issue without the  
9 Court's assistance.<sup>1</sup>

10 To simplify this process in the future, Respondents propose that the Court permit  
11 the parties to treat the Joint Status Report as a request for production under FRCP 34.<sup>2</sup>  
12 Under FRCP 34, a party from whom production is requested must provide a response to  
13 the party requesting production. FRCP 34(b)(2)(B). This response must "either state that  
14 inspection and related activities will be permitted as requested or state with specificity the  
15 grounds for objecting to the request, including the reasons." *Id.* "An objection must state  
16 whether any responsive materials are being withheld on the basis of that objection." FRCP  
17 34(b)(2)(C). If a party requesting disclosure disagrees with an objection, that party may  
18 file a motion to compel production with the court after making a good-faith effort to resolve  
19 the issue without judicial intervention. FRCP 37(a)(1), (3)(A). Respondents believe that  
20 these procedures will streamline any future discovery disputes. Respondents have provided  
21 a formal FRCP 34(b)(2) response as of today's date.

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27 <sup>1</sup> Respondents are aware that Petitioner's counsel is out of the country this week, so the  
undersigned will look to discuss the matter with Petitioner's counsel when he returns.

28 <sup>2</sup> The Court left open the question of which of the FRCP's discovery rules would apply in  
this action. *See* Order on Motion for Reconsideration (Doc. 14).

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RESPECTFULLY SUBMITTED December 8, 2025.

TIMOTHY COURCHAINED  
United States Attorney  
District of Arizona

s/ Brooks Chupp  
BROOKS CHUPP  
Assistant United States Attorney  
*Attorneys for Respondents*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8th day of December, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/M. Finlon  
United States Attorney's Office