The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, et al.,

Plaintiffs,

v.

DONALD TRUMP, President of the United States, et al.,

Defendants.

No. 2:17-cv-00094-RAJ

DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

INTRODUCTION

1. This class action lawsuit seeks to stop the federal government from unconstitutionally preventing Plaintiffs, and others like them, from obtaining immigration benefits, including, but not limited to, asylum, naturalization, lawful permanent residence, and employment authorization.

1. Paragraph 1 constitutes Plaintiff's characterizations of their case, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 1.

2. Plaintiff Abdiqafar Wagafe is a Somali national who, at the time this lawsuit was initiated, had waited three and a half years for a decision on his pending naturalization application despite his eligibility to naturalize as a United States citizen. A mere five days after Plaintiffs filed their motion for class certification, the government provided Mr.

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Wagafe his long-awaited naturalization interview on February 22, 2017. The government approved Mr. Wagafe's application immediately following his interview, and swore him in as a citizen of the United States of America on March 2, 2017.

2. Defendants admit the allegations in paragraph 2 to the extent that Plaintiff Wagafe stated he was a Somali national at the time that he submitted his naturalization application; that USCIS interviewed Plaintiff Wagafe on February 22, 2017 and approved his application on the same day; and that Plaintiff Wagafe took the oath of allegiance as a U.S. citizen on March 2, 2017. Defendants aver that Plaintiff Wagafe filed his Form N-400 on November 8, 2013. Defendants deny the remaining allegations in paragraph 2.

3. Plaintiff Mehdi Ostadhassan is an Iranian national who has applied for and is eligible to adjust his status to that of a lawful permanent resident. He has waited three years for a decision on his adjustment of status application.

3. Defendants admit the allegations in paragraph 3 to the extent that Plaintiff Ostadhassan has submitted documents wherein he indicates he is an Iranian national, and that Plaintiff Ostadhassan has applied for adjustment of status to that of lawful permanent resident. Defendants lack sufficient information to admit or deny whether Plaintiff Ostadhassan is eligible to adjust his status to that of a lawful permanent resident. Defendants aver that Plaintiff Ostadhassan's adjustment application was filed on February 11, 2014, and that USCIS issued to Plaintiff Ostadhassan a Notice of Intent to Deny the application on April 5, 2017. Defendants deny the remaining allegations in paragraph 3.

4. Plaintiff Hanin Omar Bengezi is a Libyan national who has applied for and is eligible to adjust her status to that of a lawful permanent resident. She has waited over two years for a decision on her adjustment of status application.

4. Defendants admit the allegations in paragraph 4 to the extent that Plaintiff Bengezi applied to adjust her status to that of a lawful permanent resident on February 5, 2015. Defendants aver that Plaintiff Bengezi submitted a Libyan birth certificate with her adjustment application and adjusted status on May 9, 2017. Defendants aver that Bengezi's adjustment of status application was filed on February 5, 2015, and it was pending more than two years before it was approved. Defendants deny the remaining allegations in paragraph 4.

5. Plaintiff Mushtaq Abed Jihad is an Iraqi national who has applied for and is eligible to naturalize as a United States citizen. He has waited more than three and a half years for a decision on his naturalization application.

5. Defendants admit the allegations in paragraph 5 to the extent that Plaintiff Jihad applied to naturalize on July 1, 2013, and that Plaintiff Jihad presented evidence

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that he was an Iraqi national with his naturalization application. Defendants aver that he became a U.S. citizen on May 22, 2017. Defendants deny the remaining allegations in paragraph 5.

6. Plaintiff Sajeel Manzoor is a Pakistani national who has applied for and is eligible to naturalize as a United States citizen. He has waited more than a year for a decision on his naturalization application.

6. Defendants admit the allegations in paragraph 6 to the extent that Plaintiff Manzoor presented evidence that he was a Pakistani national with his naturalization application, and that Plaintiff Manzoor's naturalization application had been submitted to USCIS more than a year before the date on which the Second Amended Complaint was filed. Defendants aver that Plaintiff Manzoor became a U.S. citizen on May 1, 2017. Defendants deny the remaining allegations in paragraph 6.

7. All Plaintiffs identify as Muslims, are originally from Muslim-majority countries, and have resided in the United States for a significant time. The inordinate delays they experience hold their lives in a state of limbo. They are prevented from having certainty about their future residence in the United States, from being able to freely travel overseas, from petitioning for immigration benefits for family members, and, for those seeking naturalization, from obtaining jobs available only to U.S. citizens and from voting in U.S. elections.

7. Defendants lack sufficient information to admit or deny the allegations in paragraph 7. Defendants aver that Plaintiffs identify themselves as Muslims in their Complaint.

8. The Constitution expressly assigns to Congress, not the executive branch, the authority to establish uniform rules of naturalization. The Immigration and Nationality Act ("INA") sets forth those rules, along with the requirements for adjustment of status to lawful permanent residence.

8. Paragraph 8 constitutes of a conclusion of law to which no response is required. To the extent the Court requires a response, Defendants aver that the Constitution and Immigration and Nationality Act speak for themselves.

9. Despite the fact that Plaintiffs meet the statutory criteria to be naturalized as United States citizens or adjust their immigration status to that of a lawful permanent resident ("LPR"), U.S. Citizenship and Immigration Service ("USCIS") has refused to adjudicate their applications in accordance with the governing statutory criteria. Instead, USCIS has applied impermissible ultra vires rules under a policy known as the Controlled Application Review and Resolution Program ("CARRP"), which has prevented the

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agency from granting Plaintiffs' applications (and, in the case of Mr. Wagafe, caused the agency to delay granting his application until this lawsuit motivated it to do so).

9. Defendants admit the allegations in paragraph 9 to the extent that each named Plaintiff, except for Plaintiff Ostadhassan, met the statutory criteria for the immigration benefit he or she sought at the time it was granted. Defendants lack sufficient information to admit or deny whether Plaintiff Ostadhassan is eligible to adjust status. Defendants can neither confirm nor deny whether a particular Plaintiff's application for immigration benefits is or was subject to CARRP; such information is protected by privilege. Defendants deny the remaining allegations in paragraph 9.

10. Since 2008, USCIS has used CARRP—an internal vetting policy that has not been authorized by Congress, nor codified, subjected to public notice and comment, or voluntarily made public in any way—to investigate and adjudicate applications the agency deems to present potential national security concerns. CARRP prohibits USCIS field officers from approving an application with an alleged potential national security concern, instead directing officers to deny the application or delay adjudication—often indefinitely.

10. Defendants admit the allegations in paragraph 10 that CARRP was created in 2008, is an internal USCIS policy, was not subjected to public notice and comment, is used to investigate and adjudicate applications that present national security concerns, and restricts certain field-level adjudicators from giving approval, without appropriate concurrences, to certain applications. Defendants deny the remaining the allegations in paragraph 10.

11. CARRP's definition of national security concern is far broader than the security-related ineligibility criteria for immigration applications set forth by Congress in the INA. CARRP identifies national security concerns based on deeply-flawed and expansive government watchlists and other vague and overbroad criteria that bear little, if any, relation to the statutory security-related ineligibility criteria. The CARRP definition casts a net so wide that it brands innocent, law-abiding residents, like Plaintiffs—none of whom pose a security threat—as national security concerns on account of innocuous activity, associations, and characteristics such as national origin.

11. Defendants deny the allegations in paragraph 11.

12. Although Plaintiffs do not know the total number of people subject to CARRP at any given time, USCIS data reveals that between Fiscal Year 2008 and Fiscal Year 2012, more than 19,000 people from twenty-one Muslim-majority countries or regions were subjected to CARRP. Upon information and belief, USCIS opened nearly 42,000 CARRP cases between 2008 and 2016.

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12. Defendants deny the allegations in the first sentence of paragraph 12, but aver that USCIS has produced data stating that between fiscal year 2008 and fiscal year 2012, more than 19,000 people from the following countries, as well as stateless individuals, had their applications handled pursuant to CARRP: Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Pakistan, Saudi Arabia, Somalia, Sri Lanka, Sudan, Syria, Tunisia, Uzbekistan, and Yemen. Defendants deny the allegations in the second sentence of this paragraph, but aver that USCIS has produced data stating that as of January 12, 2016, during Fiscal Years 2008-2016, USCIS opened 41,805 CARRP cases.

13. Moreover, two recent immigration Executive Orders issued by Defendant Donald Trump suggest the number of residents subjected to CARRP will expand in the coming months and years.

13. Defendants deny the allegations in paragraph 13.

14. On January 27, 2017, Defendant Trump issued Executive Order 13769, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States." 82 Fed. Reg. 8977 (Feb. 1, 2017) ("First EO").

14. Defendants admit the allegations in paragraph 14.

15. Section 3 of the First EO suspended entry into the United States of citizens or nationals of Syria, Iraq, Iran, Yemen, Somalia, Sudan, and Libya, all of which are predominantly Muslim countries, for 90 days or more. Although the First EO said nothing about suspending adjudications, USCIS determined that the EO required it to suspend adjudication or final action on *all* pending petitions, applications, or requests involving citizens or nationals of those seven countries with the exception of naturalization applications.

15. The first sentence of paragraph 15 constitutes Plaintiffs' characterization of the First EO, to which no response is required. Defendants deny the allegations in the second sentence of paragraph 15, and instead Defendants aver that on January 28, 2017, USCIS temporarily suspended adjudication of all applications, petitions, or requests involving citizens or nationals of the listed countries while it awaited further guidance, and that on February 2, 2017, USCIS determined that the Section 3(c) of the First EO did not affect applications, petitions, or requests filed by or on behalf of individuals in the United States, regardless of nationality.

16. Section 4 of the First EO further directed federal agencies to create and implement a policy of extreme vetting of all immigration benefits applications to identify individuals who are seeking to enter the country based on fraud and with the intent to cause harm or

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who are at risk of causing harm after admission. Upon information and belief, any such "extreme vetting" policy would expand CARRP.

16. This paragraph constitutes Plaintiffs' characterization of the First EO, to which no response is required.

17. After Judge James L. Robart enjoined the First EO in *Washington v. Trump*, No. 2:17-cv-141-JLR, ECF 52, 2017 WL 462040 (W.D. Wash. Feb. 3, 2017), and the United States Court of Appeals for the Ninth Circuit denied the government's motion for stay of that order (847 F.3d 1151 (9th Cir. 2017)), Defendant Trump issued a second Executive Order on March 6, 2017. Executive Order 13780, "Protecting the Nation From Foreign Terrorist Entry Into the United States," 82 Fed. Reg. 13209 (Mar. 9, 2017) ("Second EO"). The Second EO targets the same countries as the First EO, with the exception of Iraq, and is intended to have the same broad effect as the First EO.

17. Defendants admit the allegations in the first sentence of paragraph 17. The second sentence of paragraph 17 constitutes Plaintiffs' characterization of the First and Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First and Second EOs speak for themselves.

18. Like the First EO, the Second EO institutes an entry ban of 90 days or more for foreign nationals of the targeted countries, does not specify how it will apply to adjudications of pending applications, and directs federal agencies to create and implement a policy of extreme vetting for *all* immigration benefits. *See* Second EO §§ 2, 5. Further, a memorandum issued by Defendant Trump in connection with the Second EO cautions that the implementation of "heightened screening and vetting protocols" cannot wait, and directs the government to begin implementing these procedures immediately, even while the details of the more permanent extreme vetting policy are being developed. Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security (Mar. 6, 2017) *available at* https://www.whitehouse.gov/the-press-office/2017/03/06/memorandum-secretary-state-attorney-general-secretary-homeland-security. Accordingly, upon information and belief, the Second EO sanctions a major expansion of the existing CARRP program.

18. Paragraph 18 constitutes Plaintiff's characterization of the EOs, to which no response is required. To the extent the Court requires a response, Defendants aver that the First and Second EOs and the President's memorandum of March 6, 2017, speak for themselves.

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19. Application of CARRP,[1] both on its own and as potentially expanded pursuant to the Second EO, to pending immigration applications is unlawful and unconstitutional. The First and Second EOs reflect a preference for one religious faith over another in the adjudication of immigration applications, and, *inter alia*, discriminate against immigrants who are Muslim or are from Muslim-majority countries on the basis of their religion and country of origin. CARRP and the "extreme vetting" program to be established under the Second EO are similarly unlawful and ultra vires. The Constitution expressly assigns to Congress, not the executive branch, the authority to establish uniform rules of naturalization. The INA sets forth those rules, along with the requirements for adjustment of status to lawful permanent resident, asylum, and all other immigration benefits. By creating additional, non-statutory, substantive criteria for adjudicating immigration applications, CARRP and any successor "extreme vetting" program violate the INA, the Administrative Procedure Act ("APA") and the U.S. Constitution.

19. Paragraph 19 constitutes of a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 19 and aver that the Constitution and Immigration and Nationality Act speak for themselves. Defendants lack sufficient information to admit or deny the allegations in the first sentence of footnote 1 to paragraph 19. Defendants deny the allegations in the second sentence of footnote 1 to paragraph 19. The third sentence of footnote 1 to paragraph 19 constitutes Plaintiffs' characterization of the Complaint, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in the third sentence of footnote 1 to paragraph 19.

20. In addition, on information and belief, and based on USCIS' interpretation of the First EO, the applications of Plaintiff Ostadhassan, Plaintiff Bengezi, and proposed class members will be unlawfully suspended due to the application of the Second EO. Furthermore, adjudications of all Plaintiffs' and proposed class members' applications will be unlawfully subject to, and adjudicated under, CARRP or a successor "extreme vetting" program.

20. Defendants deny the allegations in paragraph 20.

[1] As set forth below in paragraph 59, USCIS did not make information about CARRP public, and the program only was discovered through fortuity during federal court litigation. To the extent the program has shifted in name, scope, or method, Plaintiffs may have no way to obtain that information. Thus, Plaintiffs' reference to "CARRP" incorporates any similar non-statutory and sub-regulatory successor vetting policy, including pursuant to Sections 4 and 5 of the Second EO, as described in paragraphs 126-27 below.

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21. On behalf of themselves and others similarly situated, Plaintiffs therefore request that the Court enjoin USCIS from halting adjudications of immigration benefits applications for citizens and nationals of the targeted countries pursuant to the Second EO. They further request that the Court enjoin USCIS from applying CARRP (or any similar ultra vires policy/successor "extreme vetting" program) to their immigration applications and the applications of similarly situated individuals.

21. Paragraph 21 constitutes a description of the relief Plaintiffs seek in this case to which no response is required. Defendants deny that Plaintiffs are entitled to any relief whatsoever.

JURISDICTION AND VENUE

22. Plaintiffs allege violations of the INA, the APA, and the U.S. Constitution. This Court has subject matter jurisdiction under 28 U.S.C. § 1331. This Court also has authority to grant declaratory relief under 28 U.S.C. §§ 2201 and 2202, and injunctive relief under 5 U.S.C. § 702 and 28 U.S.C. § 1361.

22. Paragraph 22 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants admit that Plaintiffs allege violations of the INA, the APA, and the U.S. Constitution, and that this Court has subject matter jurisdiction under 28 U.S.C. § 1331. Plaintiffs admit that 28 U.S.C. §§ 2201 and 2202 authorize district court courts to grant declaratory relief and that 5 U.S.C. § 702 and 28 U.S.C. § 1361 authorize district courts to grant injunctive relief. Defendants deny that this court is authorized to grant declaratory or injunctive relief, or any relief whatsoever, in this case.

23. Venue is proper in the Western District of Washington under 28 U.S.C. §§ 1391(b) and 1391(e) because (1) Plaintiff Abdiqafar Wagafe, a citizen of the United States; Plaintiff Hanin Omar Bengezi, an applicant for lawful permanent residence; Plaintiff Mushtaq Abed Jihad, a naturalization applicant; and Plaintiff Sajeel Manzoor, a naturalization applicant, reside in this district and no real property is involved in this action; (2) a substantial part of the events giving rise to the claims occurred in this district; and (3) Plaintiffs sue Defendants in their official capacity as officers of the United States.

23. Paragraph 23 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants admit that Plaintiff Wagafe is a U.S. citizen; that Plaintiffs Wagafe, Bengezi, Jihad, and Manzoor resided in this district when their applications were adjudicated; that no real property is involved; that the immigration benefit applications of Plaintiffs Wagafe, Bengezi, Jihad, and Manzoor were adjudicated in this district; and that Defendants are being sued in their official capacity. Defendants deny that Plaintiffs Bengezi, Jihad, and Manzoor are naturalization and adjustment applicants.

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PARTIES

24. Plaintiff Abdiqafar Wagafe is a thirty-two-year-old Somali national and former lawful permanent resident, who is now a citizen of the United States. He has lived in the United States since May 2007 and currently resides in SeaTac, Washington. He is Muslim. He applied for naturalization in November 2013. Even though he satisfied all statutory criteria for naturalization, USCIS subjected his application to CARRP, and as a result, a final decision was not issued for more than three and a half years. Five days after Plaintiffs filed their Motion for Class Certification, on February 14, 2017, USCIS contacted Plaintiff Wagafe to inform him that it had scheduled his long-awaited naturalization interview for February 22, 2017. At his interview, USCIS found Plaintiff Wagafe met all the statutory criteria and approved his naturalization application on the spot following the interview. He became a U.S. citizen on March 2, 2017.

24. Defendants admit the allegations in the first sentence of paragraph 24 to the extent that Plaintiff Wagafe presented himself as a thirty-two-year-old Somali national to USCIS, that Plaintiff Wagafe was a lawful permanent resident before he became a naturalized citizen of the United States, and that Plaintiff Wagafe is a citizen of the United States. Defendants admit the allegations in the second sentence of paragraph 25 to the extent that Plaintiff Wagafe entered the United States in May 2007. Defendants lack sufficient information to admit or deny the remaining allegations in the second sentence of paragraph 24. Defendants admit the allegations in the third sentence of paragraph 24 to the extent that Plaintiff Wagafe stated during his naturalization interview that he attended a local mosque. Defendants admit the allegations in the fourth sentence of paragraph 24. On grounds of privilege, Defendants can neither admit nor deny the allegations in the fifth sentence of paragraph 24 that Plaintiff Wagafe's naturalization application was handled under CARRP. Defendants admit that more than three and a half years passed between the date Plaintiff Wagafe filed his naturalization application and the date it was approved. Defendants admit that Plaintiff Wagafe met the criteria for naturalization at the time his naturalization application was approved and when he took the oath of allegiance. Defendants otherwise deny the remaining allegations in the fifth sentence of paragraph 24. Defendants admit the allegations in the sixth sentence of paragraph 24, except Defendants lack sufficient information to admit or deny Plaintiffs' characterization of "long awaited." Defendants admit the allegations in the seventh and eighth sentences of paragraph 24.

25. Plaintiff Mehdi Ostadhassan is a thirty-three-year-old national of Iran. He has lived in the United States since 2009 and resides in Grand Forks, North Dakota. He applied for adjustment to lawful permanent resident status in February 2014. He is Muslim. Even though he satisfies all statutory criteria for adjustment of status, USCIS has suspended or will suspend adjudication of his application under the First and Second EOs, respectively, and has subjected his application to CARRP or its successor "extreme vetting" program, and, as a result, a final decision has not been issued.

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25. Defendants admit the allegations in the first sentence of paragraph 25 to the extent that Plaintiff Ostadhassan has submitted documents to USCIS wherein he indicates he is a thirty-three year old Iranian national. Defendants admit the allegations in the second sentence to the extent that Plaintiff Ostadhassan has resided in the United States since 2009. Defendants lack sufficient information to admit or deny the remaining allegations in the second sentence of paragraph 25. Defendants admit the allegations in the third sentence of paragraph 25. Defendants lack sufficient information to admit or deny the fourth sentence of paragraph 25. Defendants can neither admit nor deny the allegation in the fifth sentence of paragraph 25 that Plaintiff Ostadhassan's adjustment application was subject to CARRP; such information is subject to privilege. Defendants deny the remaining allegations in the fifth sentence of paragraph 25, except that Defendants admit that no final decision has been issued on Plaintiff Ostadhassan's adjustment-of-status application as of the date of this Answer.

26. Plaintiff Hanin Omar Bengezi is a thirty-three-year-old national of Libya. She has lived in the United States since December 21, 2014, and currently resides in Redmond, Washington. After marrying a United States citizen, Ms. Bengezi applied for adjustment to lawful permanent resident status in February 2015. She is Muslim. Though she is a Canadian citizen and satisfies all statutory criteria for adjustment of status, USCIS has suspended or will suspend adjudication of her application under the First or Second EOs, respectively, and has subjected her application to CARRP or its successor "extreme vetting" program, and, as a result, a final decision has not been issued.

26. Defendants admit the allegations in the first sentence of paragraph 26 to the extent that Plaintiff Bengezi submitted to USCIS identification documents showing that she was born in Libya, on June 2, 1984. Defendants admit the allegations in the second sentence of paragraph 26 to the extent that Plaintiff Bengezi entered the United States on December 21, 2014. Defendants lack sufficient information to admit or deny the remaining allegations in the second sentence to paragraph 26. Defendants admit the allegations in the third sentence of paragraph 26. Defendants admit the allegations in the fourth sentence of paragraph 26 to the extent that Plaintiff Bengezi submitted to USCIS a Muslim marriage certificate. Defendants admit the allegation in the fifth sentence of paragraph 26 that Plaintiff Bengezi is a citizen of Canada. Defendants can neither admit nor deny the allegation in the fifth sentence of paragraph 26 that Plaintiff Bengezi's adjustment application was subject to CARRP; such information is subject to privilege. Defendants deny the remaining allegations in the fifth sentence of paragraph 26. Defendants aver that Plaintiff Bengezi's adjustment-of-status application was approved on May 9, 2017.

27. Plaintiff Mushtaq Abed Jihad is a forty-four-year-old national of Iraq. He has lived in the United States since August 2008, and currently resides in Renton, Washington. He is Muslim. He applied for naturalization in July 2013. Even though he satisfies all statutory

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criteria for naturalization, USCIS has subjected his application to CARRP or its successor "extreme vetting" program, and, as a result, a final decision has not been issued for more than three and a half years.

27. Defendants admit the allegations in the first sentence of paragraph 27 to the extent that Plaintiff Jihad submitted identification documents showing he was born in Iraq on April 2, 1972, and that according to his identification documents, Plaintiff Jihad is now forty-five-years-old. Defendants admit the allegations in the second sentence of paragraph 27 to the extent that Plaintiff Jihad entered the United States in September 2008. Defendants lack sufficient information to admit or deny the remaining allegations in the second sentence of paragraph 27. Defendants lack sufficient information to admit or deny the third sentence of paragraph 27. Defendants admit the allegations in the fourth sentence of paragraph 27. Defendants can neither admit nor deny the allegations in the fifth sentence of paragraph 27 that Plaintiff Jihad's naturalization application was subjected to CARRP; such information is protected by privilege. Defendants deny the remaining allegations in the fifth sentence of paragraph 27. Defendants aver that Plaintiff Jihad's naturalization application was approved on May 9, 2017.

28. Plaintiff Sajeel Manzoor is a forty-year-old national of Pakistan. He has lived in the United States since August 2001, and currently resides in Newcastle, Washington. He is Muslim. He applied for naturalization in November 2015. Even though he satisfies all statutory criteria for naturalization, USCIS has subjected his application to CARRP or its successor "extreme vetting" program, and, as a result, a final decision has not been issued for more than one year.

28. Defendants admit the allegations in the first sentence of paragraph 28 to the extent that Plaintiff Manzoor submitted identification documents showing he was born in Pakistan on July 16, 1976. Defendants admit the allegations in the second sentence of paragraph 28 to the extent that Plaintiff Manzoor entered the United States on August 16, 2001. Defendants lack sufficient information to admit or deny the remaining allegations in the second sentence of paragraph 28. Defendants admit the allegation in the third sentence of paragraph 28 to the extent that Plaintiff Manzoor's birth certificate indicates his religion is Islam. Defendants can neither admit nor deny the allegations in the fourth sentence of paragraph 28 that Plaintiff Manzoor's naturalization application was subjected to CARRP; such information is protected by privilege. Defendants deny the remaining allegations in the fourth sentence of paragraph 28.

29. Defendant Donald Trump is the President of the United States. Plaintiffs sue Defendant Trump in his official capacity.

29. Defendants admit the allegations in paragraph 29.

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30. Defendant USCIS is a component of the Department of Homeland Security ("DHS"), and is responsible for overseeing the adjudication of immigration benefits. USCIS implements federal law and policy with respect to immigration benefits applications.

30. Defendants admit the allegations in paragraph 30 to the extent that USCIS is a component of DHS. The remainder of the allegations in paragraph 30 constitutes Plaintiff's characterization of USCIS's function and responsibility, to which no response is required. To the extent the Court requires a response, Defendants aver that USCIS's authority is derived from the INA.

31. Defendant John F. Kelly is the Secretary of DHS, the department under which USCIS and several other immigration agencies operate. Accordingly, Secretary Kelly has supervisory responsibility over USCIS. Plaintiffs sue Defendant Kelly in his official capacity.

31. Defendants admit the allegations in paragraph 31 to the extent that John F. Kelly is the Secretary of DHS and that Secretary Kelly is sued in his official capacity. The remainder of paragraph 31 constitutes Plaintiff's characterization of the Secretary's function and responsibility, to which no response is required. To the extent the Court requires a response, Defendants aver that USCIS is a component of DHS.

32. Defendant Lori Scialabba is the Acting Director of USCIS. Acting Director Scialabba establishes and implements immigration benefits applications policy for USCIS and its subdivisions. Plaintiffs sue Defendant Scialabba in her official capacity.

32. Defendants aver that James McCament is now the Acting Director of USCIS and has been automatically substituted for Ms. Scialabba as a defendant in this action by operation of Fed. R. Civ. P. 25(d). The remainder of paragraph 32 constitutes Plaintiff's characterization of the Acting Director's function and responsibility, to which no response is required. To the extent the Court requires a response, Defendants aver that the Director is the supervisory official of USCIS.

33. Defendant Matthew D. Emrich is the Associate Director of the Fraud Detection and National Security Directorate of USCIS ("FDNS"), which is ultimately responsible for determining whether individuals filing applications for immigration benefits pose a threat to national security, public safety, or the integrity of the nation's legal immigration system. Associate Director Emrich establishes and implements policy for FDNS. Plaintiffs sue Defendant Emrich in his official capacity.

33. Defendants admit the allegations in paragraph 33 to the extent that Matthew D. Emrich is the Associate Director of the FDNS Directorate of USCIS and that Associate Director Emrich is sued in his official capacity. The remainder of the allegations in paragraph 33 constitutes Plaintiff's characterization of the Associate

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Director's function and responsibility, to which no response is required. To the extent the Court requires a response, Defendants aver that the Associate Director is the supervisory official of FDNS.

34. Defendant Daniel Renaud is the Associate Director of the Field Operations Directorate of USCIS, which is responsible for and oversees the processing and adjudication of immigration benefits applications through the USCIS field offices and the National Benefits Center. Plaintiffs sue Defendant Renaud in his official capacity.

34. Defendants admit the allegations in paragraph 34 to the extent that Daniel Renaud is the Associate Director of the Field Operations Directorate of USCIS, and admit he is sued in his official capacity. The remainder of the allegations in paragraph 34 constitutes Plaintiff's characterization of the Associate Director's function and responsibility, to which no response is required. To the extent the Court requires a response, Defendants aver that the Associate Director is the supervisory official of the Field Operations Directorate.

LEGAL FRAMEWORK

A. Naturalization

35. To naturalize as a U.S. citizen, an applicant must satisfy certain eligibility criteria under the INA and its implementing regulations. *See generally* 8 U.S.C. §§ 1421-1458; 8 C.F.R. §§ 316.1-316.14.

35. Paragraph 35 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. §§ 1421-1458; 8 C.F.R. §§ 316.1-316.14 speak for themselves.

36. Applicants must prove that they are "at least 18 years of age," 8 C.F.R. § 316.2(a)(1); have "resided continuously, after being lawfully admitted" in the United States, "for at least five years"; and have been "physically present" in the United States for "at least half of that time," 8 U.S.C. § 1427(a)(1).

36. Paragraph 36 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. § 1427 and 8 C.F.R. § 316.2(a)(1) speak for themselves.

37. Applicants must also demonstrate "good moral character" for the five years preceding the date of application, "attach[ment] to the principles of the Constitution of the United States, and favorabl[e] dispos[ition] toward the good order and happiness of the United States . . . ." 8 C.F.R. § 316.2(a)(7).

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37. Paragraph 37 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 C.F.R. § 316.2(a)(7) speaks for itself.

38. An applicant is presumed to possess the requisite "good moral character" for naturalization unless, during the five years preceding the date of the application, he or she is found (1) to be a habitual drunkard, (2) to have committed certain drug-related offenses, (3) to be a gambler whose income derives principally from gambling or has been convicted of two or more gambling offenses, (4) to have given false testimony for the purpose of obtaining immigration benefits; or if the applicant (5) has been convicted and confined to a penal institution for an aggregate period of 180 days or more, (6) has been convicted of an aggravated felony, or (7) has engaged in conduct such as aiding Nazi persecution or participating in genocide, torture, or extrajudicial killings. 8 U.S.C. § 1101(f)(6).

38. Defendants deny the allegations in paragraph 38, and instead Defendants aver that there exists no presumption of good moral character for naturalization. The remaining allegations in paragraph 38 constitute statements of law to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. § 1101(f)(6) speaks for itself.

39. The statutory and regulatory requirements set forth in paragraphs 37-38 are less stringent for certain persons who married U.S. citizens and employees of certain nonprofit organizations, in that less than five years of residency and good moral character are required. *See generally* 8 U.S.C. § 1430; 8 C.F.R. §§ 319.1 and 319.4.

39. Paragraph 39 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. § 1430 and 8 C.F.R. §§ 319.1 and 319.4 speak for themselves.

40. An applicant is barred from naturalization for national security-related reasons in circumstances limited to those codified in 8 U.S.C. § 1424, including, *inter alia*, if the applicant has advocated, is affiliated with any organization that advocates, or writes or distributes information that advocates, "the overthrow by force or violence or other unconstitutional means of the Government of the United States," the "duty, necessity, or propriety of the unlawful assaulting or killing of any officer . . . of the Government of the United States," or "the unlawful damage, injury, or destruction of property."

40. Paragraph 40 constitutes a conclusion of law, to which no response is required. To the extent that the Court requires a response, Defendants deny that 8 U.S.C. § 1424 is the limit of circumstances that can render a person ineligible to naturalize for national-security related reasons and otherwise aver that 8 U.S.C. § 1424 speaks for itself.

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41. Once an individual submits an application, USCIS must conduct a background investigation, *see* 8 U.S.C. § 1446(a); 8 C.F.R. § 335.1, which includes a full criminal background check by the Federal Bureau of Investigation ("FBI"), *see* 8 C.F.R. § 335.2.

41. Paragraph 41 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. § 1446 and 8 C.F.R. §§ 335.1 and 335.2 speak for themselves.

42. After completing the background investigation, USCIS must schedule a naturalization examination at which the applicant meets with a USCIS examiner for an interview.

42. Defendants admit the allegations of paragraph 42, and further aver that 8 C.F.R. § 335.2 describes the examination of naturalization applicants.

43. In order to avoid inordinate processing delays and backlogs, Congress has stated "that the processing of an immigration benefit application," which includes naturalization, "should be completed not later than 180 days after the initial filing of the application." 8 U.S.C. § 1571(b). USCIS must either grant or deny a naturalization application within 120 days of the date of the examination. 8 C.F.R. § 335.3.

43. Defendants admit that 8 U.S.C. § 1571(b) contains the language quoted in paragraph 43 of the complaint, and further aver that 8 U.S.C. § 1571(b) and 8 C.F.R. § 335.3 speak for themselves.

44. If the applicant has complied with all requirements for naturalization, federal regulations state that USCIS "*shall* grant the application." 8 C.F.R. § 335.3(a) (emphasis added).

44. Paragraph 44 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 C.F.R. § 335.3(a) speaks for itself.

45. Courts have long recognized that "Congress is given power by the Constitution to establish a uniform Rule of Naturalization. . . . And when it establishes such uniform rule, those who come within its provisions are entitled to the benefit thereof as a matter of right. . . ." *Schwab v. Coleman*, 145 F.2d 672, 676 (4th Cir. 1944) (emphasis added); *see also Marcantonio v. United States*, 185 F.2d 934, 937 (4th Cir. 1950) ("The opportunity having been conferred by the Naturalization Act, there is a statutory right in the alien to submit his petition and evidence to a court, to have that tribunal pass upon them, and, if the requisite facts are established, to receive the certificate." (quoting *Tutun v. United States*, 270 U.S. 568, 578 (1926))).

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45. Paragraph 45 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants aver that the Constitution and INA speak for themselves.

46. Once an application is granted, the applicant is sworn in as a United States citizen.

46. Defendants deny the allegation in paragraph 46, and instead aver that once an application is approved, the applicant is scheduled to take the oath of allegiance, and if the applicant remains eligible to naturalize up to that point in time, is administered the oath of allegiance and becomes a United States citizen.

B. Adjustment of Status to Lawful Permanent Resident

47. Federal law allows certain non-citizens to adjust their immigration status to that of a lawful permanent resident ("LPR").

47. Paragraph 47 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that the INA speaks for itself.

48. Several events may trigger eligibility to adjust to LPR status, including, but not limited to, an approved petition through a family member, such as a U.S. citizen spouse, or employer. *See, e.g.*, 8 U.S.C. § 1255(a); 8 C.F.R. § 245.1.

48. Paragraph 48 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. § 1255(a) and 8 C.F.R. § 245.1 speak for themselves.

49. In general, a noncitizen who is the beneficiary of an approved immigrant visa petition and who is physically present in the United States may adjust to LPR status if he or she "makes an application for such adjustment," was "inspected and admitted or paroled" into the United States, is eligible for an immigrant visa and admissible to the United States, and the immigrant visa is immediately available to the applicant at the time the application is filed. 8 U.S.C. §§ 1255(a)(1)-(3); 8 C.F.R. § 245.1.

49. Paragraph 49 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. §§ 1255(a)(1)-(3) and 8 C.F.R. § 245.1 speak for themselves.

50. An adjustment applicant may be found inadmissible, and therefore ineligible to become an LPR, if certain security-related grounds apply, including, *inter alia*, the applicant has engaged in terrorist activity, is a representative or member of a terrorist organization, endorses or espouses terrorist activity, or incites terrorist activity. *See* 8 U.S.C. § 1182(a)(3). USCIS's definition of a national security concern in CARRP is

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significantly broader than these security-related grounds of inadmissibility set by Congress.

50. Paragraph 50 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 50.

51. Congress has directed USCIS to process immigration benefit applications, including for adjustment of status, within 180 days. 8 U.S.C. § 1571(b).

51. Paragraph 51 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 51.

C. Other Immigration Benefits

52. Federal laws provide noncitizens living within the United States the opportunity to apply for a myriad of other immigration benefits apart from either naturalization or adjustment of status.

52. Paragraph 52 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that the INA speaks for itself.

53. For example, persons fleeing persecution or torture may apply for asylum under 8 U.S.C. § 1158, or withholding of removal, under 8 U.S.C. § 1231(b)(3). Victims of certain crimes and trafficking who have suffered serious harm and who have cooperated with law enforcement may apply for nonimmigrant visas under 8 U.S.C. §§ 1101(a)(15)(T), (U). Certain noncitizens from designated countries may apply for Temporary Protected Status ("TPS") in the event of, *inter alia*, a natural disaster or political upheaval in their country of origin. 8 U.S.C. § 1254a. In addition, a significant number of noncitizens within the United States are eligible for employment authorization based on either their current immigration status, their employment status, or their temporary immigration status, including while other applications for immigration benefits are pending. *See generally* 8 C.F.R. § 274.12a(a)-(c).

53. Paragraph 53 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that the INA and implementing regulations speak for themselves.

54. Every immigration benefit has enumerated statutory and/or regulatory requirements that applicants must affirmatively establish to demonstrate eligibility. In addition, each applicant generally must show that they are admissible under 8 U.S.C. § 1182 and/or that any past immigration violation or criminal conduct does not disqualify them for the

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benefit sought. *See, e.g.*, 8 U.S.C., §§ 1158(b)(2) (precluding asylum eligibility to individuals found to have persecuted others, to have been convicted of "a particularly serious crime," or to present a danger to national security); 1231(b)(3)(B) (precluding applicants from receiving withholding of removal based on national security grounds); 1254a(c)(2)(B)(i) (precluding applicants from qualifying for TPS if they have been convicted of a felony or two or more misdemeanors).

54. Paragraph 54 constitutes a statement of law, to which no response is required. To the extent the Court requires a response, Defendants aver that the INA speaks for itself.

FACTUAL BACKGROUND

A. The Controlled Application Review and Resolution Program ("CARRP")

55. In April 2008, USCIS created CARRP, an agency-wide policy for identifying, processing, and adjudicating immigration applications that raise "national security concerns." As described below, however, CARRP unlawfully imposes extra statutory rules and criteria to delay and deny applicants immigration benefits to which they are entitled.

55. Defendants admit the allegations in the first sentence of paragraph 55. Defendants deny the allegations in the second sentence of paragraph 55.

56. Congress did not enact CARRP, and USCIS did not promulgate it as a proposed rule with the notice-and-comment procedures mandated by the APA. *See* 5 U.S.C. § 553(b)-(c).

56. Defendants admit that Congress did not enact CARRP, but aver that CARRP is fully authorized by existing law authorizing USCIS to investigate and adjudicate applications for immigration benefits. Defendants admit that USCIS did not promulgate CARRP as a proposed rule using the notice-and-comment procedures described at 5 U.S.C. §§ 553(b)-(c). Defendants deny that notice-and-comment procedures were required to establish CARRP.

57. Upon information and belief, prior to CARRP's enactment, USCIS simply delayed the adjudication of many immigration applications that raised possible national security concerns, in part due to backlogs created by the FBI Name Check process (one of many security checks utilized by USCIS).

57. Defendants deny the allegations in paragraph 57.

58. Indeed, the U.S. District Court for the Western District of Washington previously certified a district class of hundreds of naturalization applicants whose cases were delayed due to FBI Name Checks, *see Roshandel v. Chertoff*, 554 F. Supp. 2d 1194

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(W.D. Wash. 2008), and denied the defendants' motion to dismiss the suit, *see Roshandel*, 2008 WL 1969646 (W.D. Wash. May 5, 2008). The case resulted in a settlement in which the defendants agreed to adjudicate class member applications within a specified time period. *See Roshandel*, No. C07-1739MJP, Dkt. 81 (W.D. Wash. Aug. 25, 2008).

58. Defendants admit the allegations in paragraph 58, except aver that *Roshandel* concerned the delay in the naturalization adjudication process caused by the FBI name check process and no other potential cause of delay. Defendants further aver that the word "indeed" is a characterization of the lawsuit to which no response is required.

59. Now, in lieu of delays based on the FBI Name Check process, USCIS delays applications by applying CARRP. Since CARRP's inception, USCIS has not made information about CARRP available to the public, except in response to Freedom of Information Act ("FOIA") requests and litigation to compel responses to those requests. *See ACLU of Southern California v. USCIS*, No. CV 13-861 (D.D.C. filed June 7, 2013). In fact, the program was unknown to the public, including applicants for immigration benefits, until it was discovered in litigation challenging an unlawful denial of naturalization in *Hamdi v. USCIS*, No. EDCV 10-894 VAP (DTBx), 2012 WL 632397 (C.D. Cal. Feb. 25, 2012), and then revealed in greater detail through the government's response to a FOIA request.

59. Defendants deny the allegations in the first and second sentence of paragraph 59. Defendants lack sufficient information to admit or deny the allegations in the third sentence of paragraph 59.

60. CARRP directs USCIS officers to screen citizenship and immigration benefits applications for national security concerns.

60. Defendants deny the allegations in paragraph 60, and instead aver that the INA and its implementing regulations require background checks and screening of all immigration benefit applicants which includes screening for national security concerns, and that CARRP is an internal policy that guides USCIS officers in carrying out their duties under the INA and its implementing regulations.

61. If a USCIS officer determines that an application presents a national security concern, he or she will take the application off a routine adjudication track and—without notifying the applicant—place it on a CARRP adjudication track where it is subject to distinct procedures, heightened scrutiny, and, most importantly, extra-statutory criteria that result in lengthy delays and prohibit approvals, except in limited circumstances, regardless of an applicant's statutory eligibility.

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61. Defendants deny the allegations in paragraph 61, and instead Defendants aver that if an application presents an articulable link to a national security concern, the application is handled pursuant to CARRP so that the case can be appropriately investigated to determine if the individual is eligible for the benefit sought. Defendants further aver that any application for an immigration benefit that presents an eligibility or fraud concern, regardless whether the application presents a national security concern, receives additional investigation beyond that received by an application not presenting such concerns, to ensure that only eligible individuals are granted immigration benefits.

1. CARRP's Definition of a National Security Concern

62. According to the CARRP definition, a national security concern arises when an individual or organization has been determined to have an articulable link—no matter how attenuated or unsubstantiated—to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the INA. Those sections render inadmissible or removable any individual who, *inter alia*, "has engaged in terrorist activity" or is a member of a "terrorist organization." 8 U.S.C. §§ 1182(a)(3) and 1227(a)(4).

62. Defendants admit the allegations in the first sentence of paragraph 62, except that Defendants deny that it does not matter how attenuated or unsubstantiated the link is. The second sentence of paragraph 62 constitutes a statement of the law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. §§ 1182(a)(3) and 1227(a)(4) speak for themselves.

63. For the reasons described herein, an individual need not be actually suspected of engaging in any unlawful activity or joining any proscribed organization to be branded a national security concern under CARRP.

63. Defendants admit the allegations in this paragraph, and further aver that the INA includes several grounds on which an individual is inadmissible to, or removable from, the United States in addition to engaging in unlawful activity or joining a terrorist organization, such as 8 U.S.C. § 212(a)(3)(B)(i)(II), which concerns individuals who are likely to engage in terrorism after entry to the United States, but have not necessarily already engaged in such activities.

64. CARRP distinguishes between two types of national security concerns: those ostensibly involving "Known or Suspected Terrorists" ("KSTs"), and those ostensibly involving "non-Known or Suspected Terrorists" ("non-KSTs").

64. Defendants admit the allegations in paragraph 64.

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65. USCIS automatically considers an applicant a KST, and thus a national security concern, if his or her name appears in the Terrorist Screening Database, also referred to as the Terrorist Watchlist ("TSDB" or "Watchlist"). USCIS, therefore, applies CARRP to any applicant whose name appears in the TSDB.

65. Defendants deny the allegations in paragraph 65, and instead aver that USCIS applies CARRP to applications if USCIS is aware that the applicant is in the TSDB. Defendants further aver that an applicant may be either a KST or a non-KST if their name appears in the TSDB.

66. Upon information and belief, the TSDB includes approximately one million names, many of whom present no threat to the United States.

66. Defendants lack sufficient information to admit or deny the allegations in paragraph 66.

67. The government's Watchlisting Guidance sets a very low "reasonable suspicion" standard for placement on the Watchlist. Under the Guidance, concrete facts are not necessary to satisfy the reasonable suspicion standard, and uncorroborated information of questionable or even doubtful reliability can serve as the basis for blacklisting an individual. The Guidance further reveals that the government blacklists non-U.S. citizens, including LPRs, even where it cannot meet the already low reasonable suspicion standard of purported involvement with terrorist activity. The Guidance permits the watchlisting of noncitizens simply for being associated with someone else who has been watchlisted, even if there is no known involvement with that person's purportedly suspicious activity. The Guidance also states explicitly that noncitizens may be watchlisted based on information that is very limited or of suspected reliability. These extremely loose standards significantly increase the likelihood that the TSDB constitutes information on individuals who are neither known nor appropriately suspected terrorists.

67. Defendants lack sufficient information to admit or deny the allegations in paragraph 67.

68. Furthermore, the Terrorist Screening Center ("TSC"), which maintains the TSDB, has failed to ensure that individuals who do not meet the Watchlist's criteria are promptly removed from the TSDB (or not blacklisted in the first place). In 2013 alone, the watchlisting community nominated 468,749 individuals to the TSDB, and the TSC rejected only approximately one percent of those nominations. Public reports also confirm that the government has nominated or retained people on government watchlists as a result of human error.

68. Defendants lack sufficient information to admit or deny the allegations in paragraph 68.

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69. The federal government's official policy is to refuse to confirm or deny any given individual's inclusion in the TSDB or provide a meaningful opportunity to challenge that inclusion. Nevertheless, individuals can become aware of their inclusion due to air travel experiences. In particular, individuals may learn that they are on the "Selectee List" or the "Expanded Selectee List," subsets of the TSDB, if their boarding passes routinely display the code "SSSS" or they are routinely directed for additional screening before boarding a flight over U.S. airspace. They may also learn of their inclusion in the TSDB if U.S. federal agents regularly subject them to secondary inspection when they enter the United States from abroad. Such individuals are also often unable to check-in for flights online or at airline electronic kiosks at the airport.

69. Defendants lack sufficient information to admit or deny the allegations in paragraph 69.

70. Where the KST designation does not apply, CARRP instructs officers to look for indicators of a non-Known or Suspected Terrorist ("non-KST") concern.

70. Defendants deny the allegations in paragraph 70, and instead Defendants aver that an applicant who is not a KST may be subject to CARRP as a "non-KST" if, considering the totality of the circumstances, there is an articulable link between the individual and an activity, individual, or organization described in 8 U.S.C. §§ 1182 (a)(3)(A), (B), or (F), or 1227(a) or (b).

71. These indicators fall into three categories: (1) statutory indicators; (2) non-statutory indicators; and (3) indicators contained in security check results.

71. Defendants admit the allegations in paragraph 71.

72. Statutory indicators of a national security concern arise when an individual generally meets the definitions described in Sections 212(a)(3)(A), (B), and (F), and 237(a)(4)(A) and (B) of the INA (codified at 8 U.S.C. §§ 1182(a)(3)(A), (B), and (F); and 1227(a)(4)(A) and (B)), which list the security and terrorism grounds of inadmissibility and removability.[2] However, CARRP expressly defines statutory indicators of a national

[2] These security and terrorism grounds of inadmissibility, if applicable, may bar an applicant from obtaining lawful permanent resident status, asylum, or a visa. However, they do not bar an applicant who is already a lawful permanent resident from naturalization, which is governed by the statutory provisions specific to naturalization. *See* 8 U.S.C. §§ 1421-1458. The security and terrorism provisions also may render a non-citizen removable, *see* 8 U.S.C. § 1227(a)(4), but the government has not charged Plaintiffs with removability under these provisions.

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security concern more broadly than the statute, stating that the facts of the case do not need to satisfy the legal standard used in determining admissibility or removability under those provisions of the INA to give rise to a non-KST national security concern.

72. Paragraph 72 constitutes a conclusion of law, to which no response is necessary. To the extent the Court requires a response, defendants admit the allegations in the first sentence of paragraph 72 and deny the allegations in the second sentence of paragraph 72. Footnote 2 to paragraph 72 is a characterization of the law, to which no response is required. To the extent the Court requires a response, Defendants aver that the named Plaintiffs have not been charged with removability under these provisions. Defendants further aver that while grounds of inadmissibility and removability are not themselves bars to naturalization, they may affect eligibility for naturalization insofar as applicants not lawfully admitted for permanent residence or in removal proceedings are ineligible to naturalize.

73. For example, CARRP policy specifically directs USCIS officers to scrutinize evidence of charitable donations to organizations later designated as financiers of terrorism by the U.S. Treasury Department and to construe such donations as evidence of a national security concern, even if an individual had made such donations without any knowledge that the organization was engaged in proscribed activity. Such conduct would not make an applicant inadmissible for a visa, asylum, or LPR status under the statute, *see* 8 U.S.C. § 1182(a)(3)(B), nor does it have any bearing on a naturalization application.

73. Defendants deny the allegations in paragraph 73, and instead aver that suspicious charitable donations may raise a national security concern if there is an articulable link to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in 8 U.S.C. §§ 1182(a)(3)(A), (B), or (F), or 1227(a)(4)(A) or (B); however, if the national security concern is resolved, or the actual facts, once established, do not render the applicant ineligible, such activity would not by itself lead to a denial of a benefit.

74. Under CARRP, non-statutory indicators of a national security concern include travel through or residence in areas of known terrorist activity; a large scale transfer or receipt of funds; a person's employment, training, or government affiliations; the identities of a person's family members or close associates, such as a roommate, co-worker, employee, owner, partner, affiliate, or friend; or simply other suspicious activities.

74. Defendants admit the allegations in paragraph 74, and further aver that the mere existence of an indicator does not lead to an application being handled under CARRP if there is no articulable link to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in 8 U.S.C. §§ 1182(a)(3)(A), (B), or (F), or 1227(a)(4)(A) or (B).

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75. Finally, security check results are considered indicators of a national security concern in instances where, for example, the FBI Name Check produces a positive hit on an applicant's name and the applicant's name is associated with a national security-related investigatory file. Upon information and belief, this indicator leads USCIS to label applicants national security concerns solely because their names appear in a law enforcement or intelligence file, even if they were never the subject of an investigation. For example, an applicant's name could appear in a law enforcement file in connection with a national security investigation because he or she once gave a voluntary interview to an FBI agent, he or she attended a mosque that was the subject of FBI surveillance, or he or she knew or was associated with someone under investigation.

75. Defendants admit the allegations in the first sentence of paragraph 75 to the extent that security check results, including a positive response to an FBI name check, may be indicators of a national security concern. Defendants deny the remaining allegations in the first sentence of paragraph 75 and deny the allegations in second sentence of paragraph 75. Instead Defendants aver that security check results, in and of themselves, do not lead to an application being handled under CARRP, and that there must be an articulable link to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in 8 U.S.C. §§ 1182(a)(3)(A), (B), or (F), or 1227(a)(4)(A) or (B). Defendants lack sufficient information to admit or deny the allegations in the third sentence of paragraph 75.

76. Upon information and belief, CARRP labels applicants national security concerns based on vague and overbroad criteria that often turn on national origin or innocuous and lawful activities or associations. These criteria are untethered from the statutory criteria that determine whether a person is eligible for the immigration status or benefit they seek, and are so general that they necessarily ensnare individuals who pose no threat to the security of the United States.

76. Defendants deny the allegations in paragraph 76, and instead aver that there are non-statutory criteria that may give rise to a national security concern, which may lead to an application being handled under CARRP, and that an applicant whose application is handled under CARRP is granted the immigrant benefit sought if the national security concern is resolved, or does not, after full consideration, affect eligibility for the benefit.

2. Delay and Denial

77. Once a USCIS officer identifies a CARRP-defined national security concern, the application is subjected to CARRP's rules and procedures that guide officers to deny such applications or, if an officer cannot find a basis to deny the application, to delay adjudication as long as possible.

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77. Defendants admit the allegations in paragraph 77 to the extent that once an officer identifies a national security concern, the application is then handled pursuant to CARRP. Defendants otherwise deny the remaining allegations in paragraph 77, and instead aver that a national security concern only exists if there is an articulable link between an indicator and prior, current, or planned involvement in, or association with, an activity, individual, or organization described in 8 U.S.C. §§ 1182(a)(3)(A), (B), or (F), or 1227 (a)(4)(A) or (B).

a) Deconfliction

78. One such procedure is called "deconfliction," which requires USCIS to coordinate with—and, upon information and belief, subordinate its authority to—the law enforcement agency, often the FBI, that possesses information giving rise to the supposed national security concern.

78. Defendants admit the allegations in paragraph 78 to the extent that CARRP directs officers to engage in deconfliction, a process by which USCIS coordinates with law enforcement agencies, including the FBI, that possess information giving rise to the national security concern. Defendants deny the remaining allegations in paragraph 78, and instead aver that the purpose of deconfliction is to coordinate between USCIS and the law enforcement agency/record owner to ensure that planned adjudicative activities *(e.g.*, interview, request for evidence, final decision, notice to appear issuance, etc., and the timing of such) do not compromise or impede an ongoing investigation or other interest of the law enforcement agency or record owner.

79. During deconfliction, the relevant law enforcement agency has authority: to instruct USCIS to ask certain questions in an interview or to issue a Request for Evidence ("RFE"); to comment on a proposed decision on the benefit; and to request that USCIS deny, grant, or hold the application in abeyance for an indefinite period of time.

79. Defendants deny the allegations in paragraph 79, and instead aver that law enforcement agencies may, pursuant to 8 C.F.R. § 103.2(b)(18), request that USCIS hold an application in abeyance. Defendants further aver that only authorized USCIS officials may place a case in abeyance.

80. Upon information and belief, deconfliction allows law enforcement or intelligence agencies such as the FBI to directly affect the adjudication of a requested immigration benefit, and also results in the agencies conducting independent interrogations of the applicant—or the applicant's friends and family.

80. Defendants deny the allegations in paragraph 80 that deconfliction allows law enforcement or intelligence agencies such as the FBI to directly affect the adjudication of an immigration benefit application. Defendants lack sufficient information to admit or

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deny the remaining allegations in paragraph 80 concerning the alleged independent actions of third parties.

81. Upon information and belief, USCIS often makes decisions to deny immigration benefit applications because the FBI requests or recommends the denial, not because the person is statutorily ineligible for the benefit.

81. Defendants deny the allegations in paragraph 81.

82. The FBI often seeks to use the pending immigration application to coerce the applicant to act as an informant or otherwise provide information.

82. Defendants lack sufficient information to admit or deny the allegations in paragraph 82.

b) Eligibility Assessment

83. In addition to deconfliction, once officers identify an applicant as a national security concern, CARRP directs officers to perform an "eligibility assessment" to determine whether the applicant is eligible for the benefit sought.

83. Defendants admit the allegations in paragraph 83 that an eligibility assessment is part of the CARRP process. Defendants deny the remaining allegations in paragraph 83, and instead aver that USCIS ensures that applicants for any benefit are eligible to receive it before granting a benefit.

84. Upon information and belief, at this stage, CARRP instructs officers to look for any reason to deny an application so that time and resources are not expended to investigate the possible national security concern. Where no legitimate reason supports denial of an application subjected to CARRP, USCIS officers often utilize spurious or pretextual reasons to deny the application.

84. Defendants admit the allegations in paragraph 84 to the extent that during the adjudication process, applications, including those applications in CARRP, will be denied if the applicant is ineligible for the benefit sought. Defendants deny the remaining allegations in paragraph 84.

c) Internal Vetting

85. Upon information and belief, if, after performing the eligibility assessment, an officer cannot find a reason to deny an application, CARRP instructs officers to first "internally vet" the national security concern using information available in DHS systems and databases, open source information, review of the applicant's file, RFEs, and interviews or site visits.

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85. Defendants admit the allegations in paragraph 85 to the extent that under CARRP, internal vetting occurs, which may include review of information available in DHS systems and databases and open source information, as well as review of the applicant's file, RFEs, and interviews or site visits. Defendants deny the remaining allegations in paragraph 85.

86. After conducting the eligibility assessment and internal vetting, USCIS officers are instructed to again conduct deconfliction to determine the position of any interested law enforcement agency.

86. Defendants deny the allegations in paragraph 86, and instead aver that deconfliction may occur during any phase of the adjudicative process.

d) External Vetting

87. If the national security concern remains and the officer cannot find a basis to deny the benefit, the application then proceeds to "external vetting."

87. Defendants admit the allegations in paragraph 87 to the extent that, if a national security concern remains after internal vetting and there is an identified record owner in possession of information giving rise to a national security concern, and if the application otherwise appears to be approvable, then the officer initiates external vetting. Defendants deny the remaining allegations in paragraph 87.

88. During external vetting, USCIS instructs officers to confirm the existence of the national security concern with the law enforcement or intelligence agency that possesses the information that created the concern, and obtain additional information from that agency about the concern and its relevance to the individual.

88. Defendants admit the allegations in paragraph 88.

89. CARRP policy instructs USCIS officers to hold applications in abeyance for periods of 180 days to enable law enforcement agents and USCIS officers to investigate the national security concern. According to CARRP policy, the USCIS Field Office Director may extend the abeyance periods as long as the investigation remains open.

89. Defendants deny the allegations in paragraph 89, and instead aver that USCIS may "withhold adjudication of a visa petition or other application" pursuant to the requirements of 8 C.F.R. § 103.2(b)(18).

90. Upon information and belief, CARRP provides no outer limit on how long USCIS may hold a case in abeyance, even though the INA requires USCIS to adjudicate a naturalization application within 120 days of examination, 8 C.F.R. § 335.3, and Congress has made clear its intent that USCIS adjudicate immigration applications,

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including visa petitions and accompanying applications for adjustment of status to lawful permanent residence, within 180 days of filing the application. 8 U.S.C. § 1571(b).

90. Paragraph 90 constitutes conclusions of law to which no response is required. To the extent the Court requires a response, Defendants aver the cited provisions speak for themselves. Defendants further aver that 8 C.F.R. § 103.2(b)(18) governs when USCIS may hold a case in abeyance. Defendants further aver that 8 U.S.C. § 1571(b) refers to the "sense of Congress" and does not create any enforceable right.

e) Adjudication

91. When USCIS considers an applicant to be a KST national security concern, CARRP policy forbids USCIS adjudications officers from granting the requested benefit even if the applicant satisfies all statutory and regulatory criteria.

91. Defendants deny the allegations in paragraph 91, and instead aver that, to ensure consistency and accountability, CARRP provides that only certain senior USCIS leaders may approve an immigration benefit application of a "KST".

92. When USCIS considers an applicant to be a non-KST national security concern, CARRP policy forbids USCIS adjudications officers from granting the requested benefit in the absence of supervisory approval and concurrence from a senior level USCIS official.

92. Defendants admit the allegations in paragraph 92 to the extent that, where a confirmed "non-KST" national security concern exists, a field-level adjudications officer is authorized to grant the immigration benefit application after obtaining supervisory approval and concurrence from a senior-level official.

93. In *Hamdi*, 2012 WL 632397, when asked whether USCIS's decision to brand naturalization applicant Tarek Hamdi as a national security concern affected whether he was eligible for naturalization, a USCIS officer testified that "it doesn't make him statutorily ineligible, but because he is a—he still has a national security concern, it affects whether or not we can approve him." The officer testified that, under CARRP, "until [the] national security concern [is] resolved, he won't get approved."

93. Defendants lack sufficient information to admit or deny the allegation in paragraph 93, and aver that the quotation in paragraph 93 does not appear in the cited document. Defendants further aver that USCIS applies criteria required by the INA to determine if an individual is eligible for an immigration benefit, which necessarily includes whether the applicant's cases raises a national security concern that would render the applicant ineligible for the benefit sought. Defendants further aver that even if an application is processed through CARRP, it may be approved, with appropriate concurrences, if the applicant is ultimately determined to be eligible for the benefit.

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94. Upon information and belief, USCIS routinely delays adjudication of applications subject to CARRP when it cannot find a reason to deny the application. When an applicant files a mandamus action to compel USCIS to finally adjudicate his or her pending application, it often has the effect of forcing USCIS to deny a statutorily-eligible application on pretextual grounds because CARRP prevents agency field officers from granting an application involving a national security concern.

94. Defendants deny the allegations in paragraph 94.

95. CARRP effectively creates two substantive regimes for immigration application processing and adjudication: one for those applications subject to heightened scrutiny and vetting under CARRP and one for all other applications. CARRP rules and procedures create substantive eligibility criteria that indefinitely delay adjudications and unlawfully deny immigration benefits to noncitizens who are statutorily eligible and entitled by law.

95. Defendants deny the allegations in paragraph 95, and instead aver that applications handled under CARRP may undergo additional investigation, as required by the facts of each case, to determine whether the national security concern does or does not affect the applicant's eligibility and whether the applicant is otherwise eligible for the immigration benefit sought.

96. At no point during the CARRP process is the applicant made aware that he or she has been labeled a national security concern, nor is the applicant ever provided with an opportunity to respond to and contest the classification.

96. Defendants admit the allegations in paragraph 96 to the extent that applicants are not informed whether their applications raise national security concerns or are being handled under CARRP, nor are applicants provided with an opportunity to challenge the handing of an application under CARRP. Defendants deny the remaining allegations in paragraph 96, and instead aver that CARRP is not a "classification" but rather an internal handling policy to guide USCIS personnel in the thorough and consistent investigation and adjudication of immigration benefit applications that raise national security concerns.

97. Upon information and belief, CARRP results in unauthorized adjudication delays, often lasting many years, and pre-textual denials of statutorily-eligible immigration applications.

97. Defendants deny the allegations in paragraph 97.

B. Executive Order of January 27, 2017

98. President Donald Trump campaigned for election on promises to ban Muslims from coming to the United States.

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98. Defendants deny the allegations in paragraph 98.

99. On December 7, 2015, the Trump campaign issued a press release stating that "Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what is going on." The press release is attached hereto as Exhibit A.

99. Defendants aver the attached document speaks for itself.

100. In March 2016, Defendant Trump said, "Frankly, look, we're having problems with the Muslims and we're having problems with Muslims coming into the country." Alex Griswold, *Trump Responds to Brussels Attacks: 'We're Having Problems with the Muslims*,' MEDIAITE, Mar. 22, 2016, *available at* http://www.mediaite.com/tv/trump-responds-to-brussels-attack-were-having-problems-with-the-muslims/ (last visited Feb. 1, 2017).

100. The news report attached speaks for itself and Defendants do not have knowledge of the accuracy of the article.

101. On June 14, 2016, Defendant Trump promised to ban all Muslims entering this country until "we as a nation are in a position to properly and perfectly screen those people coming into our country." The transcript of his speech is attached hereto as Exhibit B.

101. The transcript attached speaks for itself and the Defendants do not have knowledge of the accuracy of the transcript. The Defendants deny that the transcript references a "promise[] to ban all Muslims" and to the extent the Court requires a response, Defendants deny so much of the allegations of paragraph 101 as characterizes Candidate Trump's remarks.

102. In a speech on August 15, 2016, Defendant Trump said that the United States could not "adequate[ly] screen[]" immigrants because it admits "about 100,000 permanent immigrants from the Middle East every year." Defendant Trump proposed creating an ideological screening test for immigration applicants, which would "screen out any who have hostile attitudes towards our country or its principles—or who believe that Sharia law should supplant American law." During the speech, he referred to his proposal as "extreme, extreme vetting." A copy of his prepared remarks is attached hereto as Exhibit C. A video link to the delivered speech is available at: https://www.c-span.org/video/?413977-1/donald-trump-delivers-foreign-policy-address (quoted remarks at 50:46).

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102. Paragraph 102 constitutes a characterization of a document attached to the Complaint and video referenced in the Complaint to which no response is required. To the extent the Court requires a response, Defendants aver the document and video speak for themselves.

103. During an August 2016 speech, Michael Flynn, who is President Trump's former National Security Advisor, called Islam "a political ideology," suggesting it is not a religion, and called it "a vicious cancer inside the body of 1.7 billion people on this planet and it has to be excised." A copy of a news article reporting this speech is attached hereto as Exhibit D. A video link with clips of his speech is available at: http://www.cnn.com/2016/11/22/politics/kfile-michael-flynn-august-speech/.

103. The news report and video link speak for themselves and the Defendants do not have knowledge of the accuracy of the report. The Defendants deny that the transcript references a "promise[] to ban all Muslims." Insofar as the paragraph characterizes Michael Flynn's quoted remarks as "suggesting it [Islam] is not a religion," that allegation is a characterization of the facts that does not require a response To the extend the Court requires a response, Defendants deny so much of the allegations of paragraph 103 as characterizes Michael Flynn's remarks. Paragraph 103 constitutes a characterization of a document attached to the Complaint and video referenced in the Complaint to which no response is required. To the extent the Court requires a response, Defendants aver the document and video speak for themselves.

104. On January 20, 2017, Donald Trump was inaugurated as the President of the United States.

104. Defendants admit the allegations in paragraph 104.

105. In his first television appearance as President, he again referred to his plan for "extreme vetting." The transcript of this interview is attached hereto as Exhibit E.

105. The transcript attached speaks for itself and the Defendants do not have knowledge of the accuracy of the transcript. Defendants admit that the transcript refers to "extreme vetting." Defendants deny that the interview was Defendant Trump's first television appearance as President.

106. On January 27, 2017, one week after taking office, Defendant Trump signed the First EO, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States." The Executive Order is attached hereto as Exhibit F. On information and belief, and in light of the statements by Mr. Trump and his advisors set forth above, the First EO was intended to target Muslims.

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106. Defendants admit the allegations in the first and second sentences of paragraph 106. Defendants deny the allegations in the final sentence of paragraph 106.

107. Citing the threat of terrorism committed by foreign nationals, the First EO directed a variety of changes to the processing of certain immigration benefits. Most relevant to the instant action was Section 3, which fell within a section entitled "Suspension of Issuance of Visas and Other Immigration Benefits," in which President Trump ordered, in Section 3(a), an immediate "review to determine the information needed from any country to adjudicate any visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat." In Section 3(c), the order then explained that to reduce the burden of the reviews described in Section 3(a), "immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. § 1187(a)(12), would be detrimental to the interests of the United States," and that Defendant Trump was therefore "suspend[ing] entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order."

107. Paragraph 107 constitutes Plaintiffs' characterization of the First EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO speaks for itself.

108. There were seven countries that fit the criteria in 8 U.S.C. § 1187(a)(12): Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. The populations of those countries are overwhelmingly Muslim.

108. Paragraph 107 constitutes Plaintiffs' characterization of the First EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO speaks for itself. The request addresses a question of law to which no response is required.

109. The First EO purported to rely on 8 U.S.C. § 1182(f) for the authority to suspend entry into the United States.

109. Paragraph 107 constitutes Plaintiffs' characterization of the First EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO speaks for itself. The request addresses a question of law to which no response is required.

110. On information and belief, USCIS relied on Section 3 of the First EO to subsequently suspend processing of all immigrant visas and immigration benefits applications, including *all* pending petitions, applications, or requests involving citizens

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or nationals of the seven targeted countries with the exception of naturalization applications.

110. Defendants deny the allegations in paragraph 110, and instead Defendants aver that on January 28, 2017, USCIS temporarily suspended adjudication of all applications, petitions, or requests involving citizens or nationals of the listed countries while it awaited further guidance, and that on February 2, 2017, USCIS determined that the Section 3(c) of the First EO did not affect applications, petitions, or requests filed by or on behalf of individuals in the United States, regardless of nationality.

111. Section 4 of the First EO ordered the creation of a screening program for all immigration benefits applications, which would seek to identify individuals "who are seeking to enter the United States on a fraudulent basis with the intent to cause harm, or who are at risk of causing harm subsequent to their admission" and "a process to evaluate the applicant's likelihood of becoming a positively contributing member of society and the applicant's ability to make contributions to the national interest."

111. Paragraph 111 constitutes Plaintiffs' characterization of the First EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO speaks for itself.

112. Sections 5(a) and (b) of the First EO suspended the U.S. Refugee Admissions Program in its entirety for 120 days and then, upon its resumption, directed the program to prioritize refugees who claim persecution on the basis of religious-based persecution, "provided that the religion of the individual is a minority religion in the individual's country of nationality." Section 5(e) stated that notwithstanding the suspension of the Refugee Program, on a case-by-case basis, the United States may admit refugees "only so long as they determine that the admission of such individuals as refugees is in the national interest—including when the person is a religious minority in his country of nationality facing religious persecution."

112. Paragraph 112 constitutes Plaintiffs' characterization of the First EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO speaks for itself.

113. In a January 27, 2017, interview with the Christian Broadcasting Network, President Trump confirmed his intent to prioritize Christians in the Middle East for admission as refugees. A copy of the report of this interview is attached hereto as Exhibit G (David Brody: "As it relates to persecuted Christians, do you see them as kind of a priority here?" President Trump: "Yes.").

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113. Defendants deny the allegation in paragraph 113 that Defendant Trump confirmed his intent to prioritize Christians in the Middle East. Otherwise, the article speaks for itself.

C. Executive Order of March 6, 2017

114. On January 30, 2017, the State of Washington filed a lawsuit in this district seeking to enjoin application of the First EO. Complaint for Declaratory and Injunctive Relief, *Washington v. Trump*, No. 2:17-cv-00141-JLR, ECF 1 (W.D. Wash. Jan. 30, 2017). On February 3, Judge James L. Robart granted the State of Washington's motion for a temporary restraining order, which enjoined enforcement of Sections 3(a), 5(a)-(c), and 5(e) of the First EO nationwide during the pendency of the case. Temporary Restraining Order, *Washington v. Trump*, No. 2:17-cv-00141-JLR, ECF 52, 2017 WL 462040 (W.D. Wash. Feb. 3, 2017). Defendant Trump subsequently lashed out at the "so-called judge" who granted the temporary restraining order, calling the court's opinion "ridiculous" and predicting it would be overturned. Donald Trump (@realDonaldTrump), TWITTER (Feb. 4, 2017, 05:12 AM), https://twitter.com/realDonaldTrump/status/827867311054974976. To the contrary, the Ninth Circuit Court of Appeals— in a unanimous per curiam opinion—denied the government's motion for an emergency stay of the district court's temporary restraining order. *Washington v. Trump*, 847 F.3d 1151 (9th Cir. 2017).

114. With respect to the description of the President's Twitter activity, Defendants respond that the tweet speaks for itself. The court rulings also speak for themselves. Defendants admit the remaining allegations in paragraph 114.

115. In response to the Ninth Circuit's decision, Defendant Trump simultaneously vowed to "vigorously defend[] this lawful order [First EO]," while "going further" to "issue[] a new executive action . . . that will comprehensively protect our country." *See* Aaron Blake, *Donald Trump's combative, grievance-filled news conference, annotated*, THE WASHINGTON POST at 5-6, 28 (Feb. 16, 2017) *available at* https://www.washingtonpost.com/news/the-fix/wp/2017/02/16/donald-trumps-grievance-filled-press-conference-annotated/?utm_term=.696842f824c0. "Extreme vetting will be put in place," Defendant Trump promised, "and it already is in place in many places." *Id*. Later during the same press conference, Defendant Trump again addressed the forthcoming Second EO, noting "we can tailor the [executive] order to that [Ninth Circuit] decision and get just about everything, in some ways, more." *Id*.

115. The news articles described speak for themselves.

116. That same day, the government clarified in a brief to the Ninth Circuit that "[r]ather than continuing this litigation, the President intends in the near future to rescind the [First Executive] Order and replace it with a new . . . Executive Order." Supplemental Brief on

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En Banc Consideration at 4, *Washington v. Trump*, No. 17-35105 (9th Cir. Feb. 16, 2017).

116. Defendants admit the allegations in paragraph 116.

117. In the days that followed, Defendant Trump's senior policy advisor, Stephen Miller, confirmed that though the new executive order would have "minor technical differences," "[f]undamentally," it would achieve "the same basic policy outcome for the county." *See Miller: New order will be responsive to judicial ruling; Rep. Don DeSantis: Congress has gotten off to a slow start* at 2 (Feb. 21, 2017), *available at* http://www.foxnews.com/transcript/2017/02/21/miller-new-order-will-be-responsive-to-judicial-ruling-rep-ron-desantis/.

117. Defendants respond that the news articles described speak for themselves.

118. Similarly, White House Press Secretary Sean Spicer noted that though "the second executive order attempts to address the court's concerns that they made, the goal is obviously to maintain the way that we did it the first time because we believe that the law is very clear about giving the President the authority that he needs to protect the country." *See Press Briefing by Press Secretary Sean Spicer, 2/27/2017, #17*, The White House at 26-27 (Feb. 27, 2017), *available at* https://www.whitehouse.gov/the-press-office/2017/02/27/press-briefing-press-secretary-sean-spicer-2272017-17.

118. Defendants admit the allegations in paragraph 118.

119. As promised, on March 6, 2017, Defendant Trump issued a Second EO, which espouses the same discriminatory policy and effect as the First EO. The Second EO revoked the First EO as of its March 16, 2017 effective date. Second EO § 13. The Second EO is attached hereto as Exhibit I.

119. Defendants admit so much of the allegations of paragraph 119 as allege that Defendant Trump issued a Second EO on March 6, 2017, that the Second EO revoked the First EO as of the effective date of the Second EO, which was March 16, 2017, and that the Second EO was attached as Exhibit I to the Second Amended Complaint. Defendants deny the remaining allegations in paragraph 119.

120. The Second EO modifies the First EO in two relevant ways. First, whereas the First EO banned entry into the United States for 90 days or more of foreign nationals from seven countries, the Second EO omits Iraq—bringing the number of countries affected by this entry bar down to six (Iran, Libya, Somalia, Sudan, Syria, and Yemen). *Id.* §§

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1(f),1(g), 2(c).[3] Second, the Second EO clarifies that the 90-day entry bar applies only to foreign nationals who: (1) are outside of the United States on the effective date of the Second EO; (2) did not have a valid visa at 5:00 p.m., eastern standard time on January 27, 2017; and (3) do not have a valid visa on the effective date of the Second EO. *Id.* §3(a).

120. Paragraph 120 constitutes Plaintiffs' characterization of the First and Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO and Second EO speak for themselves.

121. Despite these changes, however, the same intent and effect of unlawfully discriminating against Muslim immigrants underlying the First EO similarly underlies the Second EO. On information and belief, and in light of the statements made by Defendant Trump and his advisors set forth above, the Second EO was intended to continue the First EO's intent to target Muslims.

121. Defendants deny the allegations in paragraph 121.

122. Indeed, the Second EO retains in almost identical form the provisions from the First EO that are central to Plaintiffs' allegations in this case.

122. Paragraph 122 constitutes Plaintiffs' characterization of the First and Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO and Second EO speak for themselves.

123. Section 2(a) of the Second EO, like Section 3(a) of the First EO, instructs the Secretary of Homeland Security to "conduct a worldwide review to identify whether, and if so what, additional information will be needed from each foreign country to adjudicate an application by a national of that country for a visa, admission, or other benefit under the INA (adjudications) in order to determine that the individual is not a security or public-safety threat." Section 2(b) specifies that the Secretary of Homeland Security shall report on the results of this review within 20 days of the effective date of the Second EO. *Compare* First EO § 3(b), *with* Second EO § 2(b).

123. Paragraph 123 constitutes Plaintiffs' characterization of the First and Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO and Second EO speak for themselves.

[3] Though, as explained below in paragraph 126, this exclusion of Iraq from the 90-day entry bar is tempered by the Second EO's simultaneous provision of heightened scrutiny to applications for visas, admission or other immigration benefits made by Iraqi nationals.

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124. In order to "reduce investigative burdens" while this "worldwide review" is ongoing, Section 2(c) of the Second EO demands that "the entry into the United States of nationals of those six countries be suspended for 90 days." *Compare* First EO §3(c), *with* Second EO § 2(c).

124. Paragraph 124 constitutes Plaintiffs' characterization of the Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the Second EO speaks for itself.

125. Moreover, if these countries do not supply the additional information identified by the Secretary of Homeland Security within 50 days of notification, the Secretary of Homeland Security "shall submit to the President a list of countries recommended for inclusion in a Presidential proclamation that would prohibit the entry of appropriate categories of foreign nationals" of these countries. *Compare* First EO §§ 3(d), 3(e), *with* Second EO §§ 2(d), 2(e).

125. Paragraph 125 constitutes Plaintiff's characterization of the First and Second EOs, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO and Second EO speak for themselves.

126. Notably, Section 4 of the Second EO applies heightened scrutiny to immigration applications received from Iraqi nationals. Section 4 specifies that applications for "a visa, admission, or other immigration benefit" made by Iraqi nationals must still be subjected to "thorough review" to determine whether the applicant has any connections to ISIS or any other terrorist organization or may be a terrorist or national security threat. Accordingly, though Iraqi nationals are exempted from the 90-day entry bar outlined in Section 2(c), they continue to be targeted under Section 4.

126. Paragraph 126 constitutes Plaintiffs' characterization of section 4 of the Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the section 4 of the Second EO speaks for itself.

127. Additionally, Section 5 of the Second EO demands the creation of the same "extreme vetting" program outlined in Section 4 of the First EO. The Second EO specifies that "[t]he Secretary of State, the Attorney General, the Secretary of Homeland Security, and the Director of National Intelligence shall implement a program, as part of the process for adjudications, to identify individuals who seek to enter the United States on a fraudulent basis, who support terrorism, violent extremism, acts of violence toward any group or class of people within the United States, or who present a risk of causing harm subsequent to their entry." *Compare* First EO §4(a), *with* Second EO § 5(a). Section 5 further envisions "[t]his program shall include the development of a uniform baseline for screening and vetting standards and procedures" and applies to both admission and all "other immigration benefits." Second EO § 5(a).

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127. Paragraph 127 constitutes Plaintiffs' characterization of the First and Second EOs, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO and Second EO speak for themselves.

128. Finally, Section 6 of the Second EO, like Section 5 of the First EO, "suspend[s] travel of refugees into the United States" and "suspend[s] decisions on applications for refugee status, for 120 days." *Compare* First EO § 5(a), *with* Second EO § 6(a). Following this 120-day suspension, "the Secretary of Homeland Security shall resume making decisions on applications for refugee status only for stateless persons and nationals of countries for which the Secretary of State, the Secretary of Homeland Security, and the Director of National Intelligence have jointly determined that the additional procedures implemented pursuant to this subsection are adequate to ensure the security and welfare of the United States." Second EO § 6(a). Notably, the Second EO removed the First EO's explicit preference for refugees who claim persecution based on their ascription to a minority religion. *Compare* First EO §§ 5(b), 5(e), *with* Second EO §§ 6(a), 6(c). The Second EO further purports to claim that the First EO "did not provide a basis for discriminating for or against members of any particular religion," and that "[w]hile that order allowed for prioritization of refugee claims from members of persecuted religious minority groups, that priority applied to refugees from every nation, including those in which Islam is a minority religion." Second EO § 1(b)(iv).

128. Paragraph 128 constitutes Plaintiffs' characterization of the First and Second EOs, to which no response is required. To the extent the Court requires a response, Defendants aver that the First EO and Second EO speak for themselves.

129. Just hours before the Second EO was scheduled to go into effect, on March 15, 2017 the U.S. District Court for the District of Hawaii granted a nationwide temporary restraining order, blocking application of Sections 2 and 6 of the Second EO during the pendency of that legal challenge. Order Granting Motion for Temporary Restraining Order, *Hawaii v. Trump*, No. 17-00050 DKW-KSC (D. Haw. Mar. 15, 2017).

129. Defendants admit the allegations in paragraph 129.

130. Hours later, a second federal judge in Maryland issued a nationwide preliminary injunction, blocking Section 2(c) of the Second EO from going into effect. Memorandum Opinion, *Int'l Refugee Assistance Project v. Trump*, No. TDC-17-0361 (D. Md. Mar. 15, 2017).

130. Defendants admit the allegations in paragraph 130.

131. No court has yet enjoined the "extreme vetting" provisions, including Sections 4 and 5, of the Second EO.

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131. Defendants admit the allegation in paragraph 131 that no court has enjoined Sections 4 and 5 of the Second EO. The remaining allegations in paragraph 131 constitute a characterization of the Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the Second EO speaks for itself.

D. Impact of Executive Orders on Implementation of CARRP

1. Ban on the Adjudication of Immigration Benefits Applications for Immigrants from the Targeted Countries

132. After the issuance of the First EO, at least two department heads within USCIS sent internal communications barring any final action on any petition, benefits application, or requests involving citizens or nationals of Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya.

132. Defendants admit the allegations in paragraph 132.

133. On January 28, 2017, Associate Director of Service Center Operations for USCIS, Donald Neufeld, issued instructions to Service Center directors and deputies in an email message directing the suspension of the "adjudication of all applications, petitions or requests involving citizens or nationals of the [seven] listed countries." The email continues, "At this point there are no exceptions for any form types, to include I-90s or I-765s. Please physically segregate any files that are impacted by this temporary hold pending further guidance." Photographs of the internal email communication are attached hereto as Exhibit H.

133. Defendants admit the allegations in paragraph 133.

134. In another email to staff from Daniel M. Renaud, Associate Director of Field Operations for USCIS, on January 28, 2017, Mr. Renaud stated, "Effectively [sic] immediately and until additional guidance is received, you may not take final action on any petition or application where the applicant is a citizen or national of Syria, Iraq, Iran, Somalia, Yemen, Sudan, and Libya." Alice Speri and Ryan Devereaux, *Turmoil at DHS and State Department*, THE INTERCEPT, Jan. 30, 2017, *available at* https://theintercept.com/2017/01/30/asylum-officials-and-state-department-in-turmoil-there-are-people-literally-crying-in-the-office-here/. The email continued, "Offices are not permitted [to] make any final decision on affected cases to include approval, denial, withdrawal, or revocation. Please look for additional guidance later this weekend on how to process naturalization applicants from one of the seven countries listed above who are currently scheduled for oath ceremony or whose N-400s have been approved and they are pending scheduling of oath ceremony." *Id.*; *see also* Michael D. Shear and Ron Nixon, *How Trump's Rush to Enact an Immigration Ban Unleashed Global Chaos*, NEW YORK TIMES (Jan. 29, 2017), *available at*

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https://www.nytimes.com/2017/01/29/us/politics/donald-trump-rush-immigration-order-chaos.html.

134. Defendants respond that the newspaper reports speak for themselves.

135. On January 31, 2017, U.S. Customs and Border Protection, a subdivision of DHS, reported on its website that the First EO does not apply to pending naturalization applications and that "USCIS will continue to adjudicate N-400 applications for naturalization and administer the oath of citizenship consistent with prior practices." *Protecting the Nation from Foreign Terrorist Entry into the United States*, CBP, https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states.

135. Defendants admit the allegations in paragraph 135.

136. Referencing the hold on adjudications for people from the seven countries subject to the First EO, a USCIS official told The Intercept, "We know what is coming. These cases will all be denied after significant waits." Alice Speri and Ryan Devereaux, *Turmoil at DHS and State Department*, THE INTERCEPT, Jan. 30, 2017.

136. Defendants admit that The Intercept published a report containing the quote cited in paragraph 136, and attributed that quote to a USCIS official. Defendants, however, lack sufficient information to admit or deny whether a USCIS Official actually made the statement so attributed by The Intercept article.

137. This halt in USCIS adjudications took place pursuant to provisions of the First EO which also appear, in similar form, in the Second EO. Implementation of the Second EO was enjoined before Section 2 could go into effect. However, upon information and belief, USCIS similarly will apply the Second EO to suspend adjudication of immigration benefits to people from its six targeted countries. The application of the Second EO to USCIS immigration benefits applications will effectuate the intent of the Second EO to target Muslims.

137. Defendants deny the allegations in paragraph 137, and instead aver that USCIS adjudications did not halt pursuant to the First EO, but rather that on January 28, 2017, USCIS temporarily suspended adjudication of all applications, petitions, or requests involving citizens or nationals of the listed countries while it awaited further guidance, and that on February 2, 2017, USCIS determined that the Section 3(c) of the First EO did not affect applications, petitions, or requests filed by or on behalf of individuals in the United States, regardless of nationality.

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2. "Extreme Vetting" of Muslim Immigrants

138. As described above, Section 5 of the Second EO orders the Secretary of Homeland Security, the Secretary of State, the Director of National Intelligence, and the Attorney General to "implement a program, as part of the process for adjudications, to identify individuals . . . who present a risk of causing harm." The Second EO calls for the implementation of a "program [that] shall include the development of a uniform baseline for screening and vetting standards and procedures," including "a mechanism to assess whether applicants may commit, aid, or support any kind of violent, criminal, or terrorist acts after entering the United States," and "any other appropriate means for ensuring . . . a rigorous evaluation of all grounds . . . for denial of…immigration benefits."

138. Paragraph 138 constitutes Plaintiffs' characterization of the Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the Second EO speak for itself.

139. Similarly, Section 4 of the Second EO applies heightened scrutiny to immigration applications received from Iraqi nationals. Section 4 specifies that applications for "a visa, admission, or other immigration benefit" made by Iraqi nationals must still be subjected to "thorough review" to determine whether the applicant has any connections to ISIS or any other terrorist organization or may be a terrorist or national security threat. Accordingly, though Iraqi nationals are exempted from the 90-day entry bar outlined in Section 2(c), they continue to be targeted under Section 4.

139. Paragraph 139 constitutes Plaintiffs' characterization of the Second EO, to which no response is required. To the extent the Court requires a response, Defendants aver that the Second EO speak for itself.

140. In conjunction with the issuance of the Second EO, Defendant Trump published a "Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security" on the subject of "Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits…." March 6, 2017, *available at* https://www.whitehouse.gov/the-press-office/2017/03/06/memorandum-secretary-state-attorney-general-secretary-homeland-security. In this memorandum, Defendant Trump cautions that "this Nation cannot delay the immediate implementation of additional heightened screening and vetting protocols and procedures for issuing visas to ensure that we strengthen the safety and security of our country." Accordingly, he instructs the Secretary of State and the Secretary of Homeland Security, in conjunction with the Attorney General, to "implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting of applications for visas and all other immigration benefits." Moreover, this implementation shall begin immediately, "[w]hile th[e] comprehensive review" ordered by Section 2 of the Second EO "is ongoing." The memorandum also instructs

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government officials to "rigorously enforce all existing grounds of inadmissibility and to ensure subsequent compliance with related laws after admission."

140. Paragraph 140 constitutes Plaintiffs' characterization of the Presidential Memorandum, to which no response is required. To the extent to court requires a response Defendants aver that the Presidential Memorandum speaks for itself.

141. Upon information and belief, the "extreme vetting" program required by the Second EO, as enhanced by Defendant Trump's accompanying memorandum, will dramatically expand CARRP, an existing program USCIS has implemented since April 2008.

141. Defendants deny the allegations in paragraph 141.

B. Facts Specific To Each Plaintiff

Abdiqafar Wagafe

142. Plaintiff Abdiqafar Aden Wagafe is a thirty-two-year-old Somali national who currently resides in SeaTac, Washington.

142. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that Plaintiff Wagafe presented himself to USCIS as a Somali national, born on January 1, 1985.

143. Between 2001 and 2007, Mr. Wagafe lived in refugee camps and temporary refugee housing in Kenya and Ethiopia.

143. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that Plaintiff Wagafe's adjustment-of-status application claimed his residence from 2000 to 2007 was Nairobi, Kenya.

144. On May 24, 2007, he moved to the United States with nine family members and was admitted as a refugee. He has lived in the United States since then.

144. Defendants admit that Plaintiff Wagafe entered the United States on May 24, 2007 as a refugee. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

145. After arriving in the United States, Mr. Wagafe briefly stayed in Minneapolis, Minnesota with his brother. He then moved to Seattle, where his two sisters and another brother live.

145. Defendants lack sufficient information to admit or deny the allegations in paragraph 145.

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146. All of the nine family members who moved to the United States with Mr. Wagafe have become U.S. citizens.

146. Defendants lack sufficient information to admit or deny the allegations in paragraph 146.

147. From July 2007 until February 2011, Mr. Wagafe worked for Delta Global Services until widespread layoffs left him without a job. Since February 2011, he has worked at a Somali restaurant, which he currently co-owns and manages.

147. Defendants lack sufficient information to admit or deny the allegations in paragraph 147.

148. On May 28, 2008, Mr. Wagafe filed an application for refugee adjustment of status to become an LPR.

148. Defendants admit the allegations in paragraph 148.

149. USCIS granted his application on November 3, 2008, retroactively granting him LPR status as of May 24, 2007, the date he was admitted to the U.S. as a refugee. *See* 8 C.F.R. § 209.1(e).

149. Defendants admit the allegations in paragraph 149.

150. Mr. Wagafe filed his first application for naturalization on July 3, 2012. USCIS interviewed him on October 29, 2012, but he failed the English-language portion of the exam. USCIS interviewed Mr. Wagafe a second time on January 3, 2013, but he again failed the English writing portion of the exam. He also did not understand English sufficiently to comprehend the Oath of Allegiance. On these bases, USCIS denied his first application for naturalization on January 9, 2013.

150. Defendants admit the allegations in paragraph 150.

151. Mr. Wagafe has since improved his English skills significantly.

151. Paragraph 151 constitutes a characterization to which no response is required. To the extent the Court requires a response, Defendants lack sufficient information to admit or deny the allegation in paragraph 151.

152. Mr. Wagafe filed a second application for naturalization on November 8, 2013. USCIS scheduled his interview for February 25, 2014, but cancelled it on January 29, 2014 without explanation.

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152. Defendants admit the allegations in this paragraph, but aver that the cancellation notice provided to Plaintiff Wagafe speaks for itself.

153. Mr. Wagafe made various inquiries concerning his case to USCIS, but did not receive any explanation for the delay. USCIS responded to his queries in July 2015, instructing his attorney to have patience and that the agency would let him know when the agency was ready to interview him. His subsequent inquiries went unanswered.

153. Defendants lack sufficient information to admit or deny the allegations in paragraph 153.

154. On February 14, 2017—five days after Plaintiffs filed their motion for class certification in this case—a USCIS officer suddenly informed Mr. Wagafe's attorney that an interview had been scheduled on his immigration application. At the interview, which occurred on February 22, 2017, the immigration officer approved Mr. Wagafe's application on the spot. Mr. Wagafe took the oath of allegiance on March 2, 2017 and became a United States citizen on that same day. In sum, after keeping his application on hold for three and a half years without explanation, the government processed and approved Mr. Wagafe's application within two weeks of Plaintiffs filing for class certification.

154. Defendants admit that Plaintiff Wagafe was informed of an interview on his naturalization application on February 14, 2017, by a USCIS officer; that on February 22, 2017, an immigration officer approved his naturalization application; and that on March 2, 2017, Plaintiff Wagafe took the oath of allegiance and became a U.S. citizen. The remaining allegations in this paragraph are characterizations of facts that do not require a response. To the extent that an answer is required, Defendants deny the remaining allegations.

155. Mr. Wagafe resided continuously in the United States for at least five years preceding the date of filing his application for naturalization, and has resided continuously within the United States from the date of filing his application until the present.

155. Defendants admit that Plaintiff Wagafe satisfied the residence and physical presence requirements for naturalization on March 2, 2017, the date he took the oath of allegiance, but lack sufficient information to admit or deny the allegations in this paragraph.

156. Mr. Wagafe has never been convicted of a crime.

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156. Defendants aver that, during the naturalization process, USCIS was not aware that Plaintiff Wagafe had ever been convicted of a crime but Defendants lack sufficient information to admit or deny the allegations in this paragraph.

157. There is and was no statutory basis for denying his naturalization application.

157. Defendants lack sufficient information to admit or deny the allegations in paragraph 157. Defendants aver that USCIS approved Plaintiff Wagafe's naturalization application on February 22, 2017, as USCIS was not then aware of any statutory basis to deny his application.

158. Mr. Wagafe is Muslim and regularly attends mosque. He also frequently sends small amounts of money to his relatives in Somalia, Kenya, and Uganda. He has been married to a woman in Uganda since December 2015 and makes visits to see her. He had been unable to bring her to the United States because of the delays in his case.

158. Defendants lack sufficient information to admit or deny the allegations in paragraph 158.

159. Mr. Wagafe's immigration Alien file ("A-file") makes clear that USCIS subjected his pending application to CARRP. The A-file states that a CARRP officer handled his case. In addition, a document in the A-File shows that on December 8, 2013, there was a hit on Mr. Wagafe's name in the FBI Name Check and that the Name Check result contained "derogatory information." The document also states that Mr. Wagafe appears eligible for naturalization absent confirmation of national security issues. The document then states that the case is being forwarded for external vetting.

159. The allegations in the first sentence of this paragraph constitute Plaintiffs' characterization of Plaintiff Wagafe's subjective belief regarding his Alien File, to which no response is required. To the extent a response is required, Defendants can neither admit nor deny whether Mr. Wagafe's naturalization application was subjected to CARRP; such information is protected by privilege. Defendants admit the remainder of the allegations in Paragraph 159.

160. Upon information and belief, Mr. Wagafe's naturalization application was subject to CARRP or its successor "extreme vetting" program, which caused the delay in adjudication of his naturalization application, despite the fact that he was statutorily entitled to naturalize.

160. Defendants can neither admit nor deny whether Plaintiff Wagafe's naturalization application was subjected to CARRP; such information is protected by privilege.

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161. Mr. Wagafe suffered significant harm due to the delay in adjudication of his naturalization application. Although he is married to a Ugandan woman, he was unable to bring her to live with him in the United States, because, until he became a U.S. citizen, his wife did not qualify as an immediate relative, *see generally* 8 U.S.C. § 1151, and thus could not avoid the waiting list for petitions filed by lawful permanent residents on behalf of their spouses. Subjecting Mr. Wagafe's application to CARRP also harmed his professional options and prevented him from voting in local and national elections.

161. Defendants can neither admit nor deny whether Plaintiff Wagafe's naturalization application was subjected to CARRP; such information is protected by privilege. Defendants lack sufficient information to admit or deny the remaining allegations in paragraph 161.

Mehdi Ostadhassan

162. Plaintiff Mehdi Ostadhassan is a thirty-three-year-old national of Iran. He resides in Grand Forks, North Dakota.

162. Defendants admit the allegations in the first sentence of paragraph 162 to the extent that Plaintiff Ostadhassan submitted documents to USCIS wherein he indicates he is a thirty-three year old national of Iran. Defendants lack sufficient information to admit or deny the allegations in the second sentence of paragraph 162.

163. Mr. Ostadhassan moved to the United States in 2009 on a student visa and studied at the University of North Dakota. He earned his Ph.D. in Petroleum Engineering, and, after graduation, was immediately hired by the University of North Dakota as an Assistant Professor of Petroleum Engineering.

163. Defendants admit that Plaintiff Ostadhassan submitted documents to USCIS wherein he indicates he entered the United States in 2009 on an F-1 visa, and that he studied at the University of North Dakota. Defendants lack sufficient information to admit or deny the remainder of the allegations in paragraph 163.

164. At the University of North Dakota, Mr. Ostadhassan met Bailey Bubach, a United States citizen. In January 2014, they were married in a small religious ceremony in California, and then obtained their marriage license in Grand Forks, North Dakota. Their first child was born in July 2016.

164. Defendants admit that Plaintiff Ostadhassan submitted documents to USCIS indicating that he and Bailey Bubach, a United States citizen, were married in January 2014, and that they obtained their marriage license in Grand Forks, N.D. Defendants lack sufficient information to admit or deny the remainder of the allegations in this paragraph.

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165. In February 2014, Ms. Bubach filed an immigrant visa petition (USCIS Form I-130) for Mr. Ostadhassan and he concurrently filed an application to adjust status (USCIS Form I-485) based upon his marriage.

165. Defendants admit the allegations in paragraph 165.

166. Mr. Ostadhassan has never been convicted of a crime.

166. Defendants lack sufficient information to admit or deny the allegations in paragraph 166, but aver that they currently do not possess information that Plaintiff Ostadhassan has committed a crime.

167. USCIS scheduled Mr. Ostadhassan for an interview on May 19, 2014, but when he appeared for the interview, USCIS informed him that it was cancelled.

167. Defendants deny the allegations in paragraph 167, except to admit that USCIS scheduled Plaintiff Ostadhassan for an interview on May 19, 2014.

168. USCIS rescheduled and conducted an interview almost a year and a half later, on September 24, 2015. At that interview, a USCIS officer told Mr. Ostadhassan that the agency still could not make a decision and that it needed to complete further background and security checks. To date, Mr. Ostadhassan is still waiting for a decision from USCIS.

168. Defendants admit that USCIS conducted an interview on September 24, 2015. Defendants aver that Plaintiff Ostadhassan's application for adjustment of status is pending. USCIS lacks sufficient information to admit or deny the remainder of the allegations in paragraph 168.

169. Mr. Ostadhassan and Ms. Bubach are Muslim and active participants in their religious community. Each year they donate to Muslim charities in accordance with the teachings of Islam. They are both involved in the Muslim Student Association at the University of North Dakota. In addition, they run a Muslim Sunday School. Mr. Ostadhassan also coordinates the Muslim Congress's Koran competition every year.

169. Defendants lack sufficient information to admit or deny the allegations in paragraph 169.

170. Upon information and belief, USCIS considers Mr. Ostadhassan a non-KST national security concern and is subjecting him to CARRP. USCIS may have subjected Mr. Ostadhassan's adjustment application to CARRP because he has resided in and traveled through what the government considers areas of known terrorist activity—namely, Iran—and because of his donations to Islamic charities and involvement in the Muslim community.

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170. Defendants can neither admit nor deny the allegations in this paragraph, as whether any individual is considered a national security concern is subject to privilege.

171. In October 2014, an FBI agent contacted Mr. Ostadhassan and asked to meet to discuss his recent trip to Iran to visit family. Mr. Ostadhassan declined to meet with the FBI, and his lawyer informed the agent that any further communications should go through the attorney. The FBI has not contacted Mr. Ostadhassan since.

171. Defendants admit that an FBI agent contacted Plaintiff Ostadhassan in October 2014. Defendants aver that in October 2014, an individual who stated she was an attorney who worked on immigration matters at the University of North Dakota contacted the FBI, and indicated to the FBI that Plaintiff Ostadhassan did not want to meet with the FBI. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

172. Upon information and belief, the request for a visit by the FBI was a product of CARRP's deconfliction process.

172. Defendants lack sufficient information to admit or deny the allegations in paragraph 172.

173. Upon information and belief, Mr. Ostadhassan's application for adjustment of status is subject to CARRP or its successor "extreme vetting" program, which has delayed the adjudication of his application, despite the fact that he is statutorily eligible for adjustment of status.

173. Defendants can neither admit nor deny that Plaintiff Ostadhassan's application for adjustment of status is subject to CARRP as such information is subject to privilege. Defendants deny the remainder of the allegations in this paragraph.

174. As Mr. Ostadhassan is a citizen of Iran, one of the countries targeted in the First EO and Second EO, USCIS suspended adjudication of his application for adjustment of status under the First EO and, on information and belief, will suspend adjudication indefinitely under the Second EO.

174. Defendants deny the allegations in paragraph 174, except that Defendants admit that Plaintiff Ostadhassan has claimed to be a citizen of Iran, and that Iran was one of the countries identified in the First EO.

175. Mr. Ostadhassan has been significantly harmed by the delay in adjudication of his adjustment of status application. Because of his temporary nonimmigrant status, and without an approved adjustment application, he cannot travel outside the United States.

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He recently was unable to travel to Iran to introduce his U.S. citizen wife and infant to his Iranian family; his wife and child traveled to Iran without him. He has also lost out on significant professional opportunities. He is a college professor, and his unapproved adjustment application has prevented him from attending conferences overseas. Due to the delay, he and his wife feel that their lives and future in the United States are suspended in limbo, not knowing whether they have a future in the United States.

175. Defendants deny the allegations in this paragraph or lack sufficient information to admit or deny the allegations in this paragraph.

Hanin Omar Bengezi

176. Plaintiff Hanin Omar Bengezi is a 32-year-old Libyan national and Canadian citizen who currently resides in Redmond, Washington. She is an elementary school substitute teacher.

176. Defendants aver that Plaintiff Hanin Omar Bengezi submitted to USCIS identification documents showing she is a Libyan national and Canadian citizen and that according to the information in her identification documents, she is now 33 years old. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

177. Ms. Bengezi was born in Libya. She lived with her family in Slovenia from 1985 to 1990 and then in Libya from 1990 to 1995.

177. Defendants admit that the identification documents submitted to USCIS by Ms. Bengezi show that she was born in Libya. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

178. Ms. Bengezi immigrated to Canada with her family in 1995, where she lived until she moved to the United States.

178. Defendants lack sufficient information to admit or deny the allegations in paragraph 178.

179. She became a Canadian citizen in February 2012.

179. Defendants admit the allegations in this paragraph are consistent with the documents submitted to USCIS by Ms. Bengezi.

180. When Ms. Bengezi attempted to visit the U.S. as a Canadian citizen in May 2012 near Buffalo, New York via the Western Hemisphere Travel Initiative, she and her accompanying family members were refused entry.

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180. Defendants admit the allegations in paragraph 180.

181. In 2012, Ms. Bengezi met her current husband, who is a U.S. citizen. Their relationship blossomed and they were engaged in December 2012.

181. Defendants admit the allegations in this paragraph are consistent with the information submitted to USCIS by Plaintiff Bengezi's husband.

182. Her husband filed a Form I-129F, Petition for Alien Fiancée, with USCIS for Ms. Bengezi on February 13, 2013.

182. Defendants admit that Ms. Bengezi's husband filed a Form I-129, but aver that the Form was filed on February 11, 2013.

183. USCIS approved the fiancée petition for Ms. Bengezi on May 31, 2013.

183. Defendants admit the allegations in paragraph 183.

184. On December 16, 2013, Ms. Bengezi interviewed for her K-1 Fiancée visa at the U.S. embassy in Montreal, Canada.

184. Defendants admit the allegations in paragraph 184, except that Defendants deny that Plaintiff Bengezi's interview took place at the U.S. Embassy in Montreal, and instead aver that the United States' diplomatic mission in Montreal is a Consulate General rather than an Embassy.

185. The U.S. embassy in Montreal issued Ms. Bengezi's K-1 Fiancée visa on November 4, 2014.

185. Defendants admit the allegations in paragraph 185, except to aver that the United States' diplomatic mission in Montreal is a Consulate General rather than an Embassy.

186. Ms. Bengezi came to the U.S. on December 21, 2014, and got married on January 23, 2015 in Lynnwood, Washington.

186. Defendants admit the allegations in this paragraph, except that the date of marriage, according to documents submitted to USCIS by Plaintiff Bengezi, was December 27, 2014.

187. On February 5, 2015, Ms. Bengezi filed for Adjustment of Status to become an LPR with USCIS.

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187. Defendants admit the allegations in paragraph 187.

188. USCIS has not scheduled an adjustment of status interview for Ms. Bengezi and her husband.

188. Defendants deny the allegations in paragraph 188.

189. Ms. Bengezi has made various inquiries concerning her case to USCIS, but has not received an explanation for the delay. USCIS last responded to her queries on December 19, 2016, informing her attorney, "We continue to work on this application and understand your client is concerned about the progress of her case. The application will be scheduled for interview when it is interview ready; we will contact [you] should we need any further information prior to scheduling." Her subsequent inquiries have gone unanswered.

189. Defendants aver that on several occasions, USCIS responded to Ms. Bengezi's inquiries regarding her case, but Defendants otherwise lack sufficient information to admit or deny the allegations in this paragraph.

190. Ms. Bengezi is Muslim.

190. Defendants aver that Plaintiff Bengezi submitted a Muslim marriage certificate to USCIS, but Defendants otherwise lack sufficient information to admit or deny the allegation in this paragraph.

191. Ms. Bengezi has never been convicted of or arrested for a crime.

191. Defendants aver that USCIS was not aware, during the adjustment-of-status process, that Plaintiff Bengezi had ever been convicted of a crime, but lack sufficient information to admit or deny the allegations in this paragraph.

192. There is no statutory basis for denying Ms. Bengezi's adjustment of status application.

192. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that, being unaware of any basis to deny Plaintiff Bengezi' adjustment-of-status application, USCIS approved Ms. Bengezi's adjustment-of-status application on May 9, 2017.

193. When Ms. Bengezi flies, she is required to obtain her airplane ticket at the airline counter (instead of being able to check in online), her ticket is marked "SSSS" for "Secondary Security Screening Selection," and she is required to undergo additional and unnecessary secondary screening

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193. Defendants lack sufficient information to admit or deny the allegations in paragraph 193.

194. When Ms. Bengezi travels through land border crossings, such as the CBP Blaine Station, she is referred to secondary inspection for screening and additional questioning.

194. Defendants lack sufficient information to admit or deny the allegations in paragraph 194.

195. Ms. Bengezi's Canadian family members continue to be refused entry to the U.S. and denied visitor visas without explanation.

195. Defendants lack sufficient information to admit or deny the allegations in paragraph 195.

196. USCIS's delays in adjudicating Ms. Bengezi's case, the additional scrutiny when traveling by air or when crossing the border, and the refusal to issue visitor visas to her family members make it clear that USCIS has subjected her pending application to CARRP or its successor "extreme vetting" program. This has delayed the adjudication of her application, despite the fact that she is statutorily eligible for adjustment of status.

196. The allegations in this paragraph constitute Plaintiffs' characterization of Plaintiff Bengezi's subjective belief regarding her case, which requires no response. To the extent a response is required, Defendants can neither admit nor deny whether Ms. Bengezi's adjustment-of-status application was handled under CARRP; such information is protected by privilege. Defendants otherwise deny the allegations in paragraph 196.

197. As Ms. Bengezi is a citizen of Libya, one of the countries targeted in the First EO and Second EO, USCIS suspended adjudication of her application for adjustment of status under the First EO and, on information and belief, will suspend adjudication indefinitely under the Second EO.

197. Defendants deny the allegations in paragraph 197, except that Defendants admit that Plaintiff Bengezi has claimed to be a citizen of Libya, and that Libya is one of the countries identified in the First and Second EOs.

198. Ms. Bengezi has been significantly harmed by the delay in adjudication of her adjustment of status application. Because of her temporary nonimmigrant status, and without an approved adjustment application, she has had a difficult time traveling outside of the United States. This has negatively impacted her ability to visit her family. Additionally, the delay has impacted her ability to obtain full-time employment due to the need to regularly renew her employment authorization, and has also limited her ability to

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pursue other professional opportunities. It has prevented her from establishing a normal life in the United States by interfering with her ability to enter into routine transactions such as, inter alia, obtaining loans and signing leases. The delay has also caused much stress and anxiety for Ms. Bengezi, who is uncertain whether she and her husband will be allowed to live together as a family in the United States.

198. Defendants lack sufficient information to admit or deny the allegations in this paragraph, except that Defendants aver that Plaintiff Bengezi entered the United States with a K-1 fiancée nonimmigrant visa, valid until March 20, 2015. Defendants aver that Bengezi married her husband and applied for adjustment of status within 90 days of her entry. Defendants further aver the Bengezi was eligible to apply for advance parole to travel and work authorization while her adjustment of status application was pending.

Mushtaq Abed Jihad

199. Plaintiff Mushtaq Abed Jihad is a 44-year-old refugee from Iraq who currently resides in Renton, Washington.

199. Defendants admit that Plaintiff Mushtaq Abed Jihad entered the United States as a refugee from Iraq. Defendants aver that according to the identification documents submitted by Plaintiff Jihad, he is 45 years old and that he is now a naturalized citizen. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

200. In April 2005, Mr. Jihad, then a successful business owner, was abducted from one of his stores in Iraq. He was beaten and tortured before ultimately escaping.

200. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that the allegations in this paragraph are consistent with the written sworn statement that Plaintiff Jihad submitted to USCIS in 2014.

201. Mr. Jihad challenged his attackers in court, which led to death threats. Once, when leaving court, there was an attempt on his life, and he was shot.

201. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that the allegations in this paragraph are generally consistent with the written sworn statement that Plaintiff Jihad submitted to USCIS in 2014.

202. In April 2007, the day the court would decide Mr. Jihad's case against his kidnappers, Mr. Jihad and his family were again victims of a vicious attack. As he stepped out of the front door of his house with his one-week-old son in his arms, his home was rocked by an explosion. He lost his leg and his newborn son was killed. In the

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aftermath of the explosion, the attackers also shot Mr. Jihad numerous times. The rest of Mr. Jihad's family managed to escape the attack.

202. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that the allegations in this paragraph are generally consistent with the written sworn statement that Plaintiff Jihad submitted to USCIS in 2014.

203. Once released from the hospital where had stayed for several months following that incident, he and his family fled Iraq to Syria. The United States eventually accepted them as refugees for resettlement.

203. Defendants lack sufficient information to admit or deny the allegations in the first sentence of this paragraph, but aver that the allegations are generally consistent with the written sworn statement that Plaintiff Jihad submitted to USCIS in 2014. Defendants admit the allegations in the second sentence of this paragraph.

204. In August 2008, Mr. Jihad and his family entered the United States and resettled in the Tri-Cities area of Washington.

204. Defendants admit the allegations in this paragraph, except that Defendants deny that Plaintiff Jihad was admitted to the United States in August 2008 and instead aver he was admitted to the United States on September 10, 2008.

205. His lawful permanent residence became effective as of the date of his arrival in the U.S.

205. Defendants admit the allegations in this paragraph, except that Defendants aver that the date of Plaintiff Jihad's arrival in the United States was September 10, 2008.

206. Mr. Jihad filed his N-400 Application for Naturalization on July 1, 2013.

206. Defendants admit the allegation in paragraph 205.

207. On his N-400 Application Mr. Jihad affirmatively responded that he seeks to change his surname. He no longer wishes to use his family name because of the unrelenting negative reactions directed at him every time he is required to use his name.

207. Defendants admit the allegations in the first sentence of paragraph 207, but aver that during the naturalization interview, Plaintiff Jihad changed his written answer to reflect that he elected not to change his surname. Defendants lack sufficient information to admit or deny the allegations in the second sentence of paragraph 207.

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208. On July 26, 2013, Mr. Jihad completed his biometrics appointment for his naturalization application.

208. Defendants admit the allegations in paragraph 208.

209. Approximately one week after his biometrics appointment, two FBI agents and an interpreter visited Mr. Jihad. The agents questioned Mr. Jihad extensively about his history and why he had elected to change his name on his naturalization application. Multiple times Mr. Jihad attempted to correct the interpreter when he felt he was not being interpreted correctly, but the corrections were rejected.

209. Defendants lack sufficient information to admit or deny the allegations in paragraph 209.

210. In October 2013, Mr. Jihad started to feel ill and was subsequently diagnosed with leukemia.

210. Defendants admit that the allegations in this paragraph are consistent with the documents Plaintiff Jihad submitted to USCIS.

211. Because he is not a U.S. citizen, Mr. Jihad's social security disability support terminated in 2015, after he had been present in the U.S. for more than 7 years.

211. Defendants lack sufficient information to admit or deny the allegations in paragraph 211. Defendants aver that Plaintiff Jihad became a United States citizen on May 22, 2017.

212. Following his diagnosis, Mr. Jihad moved to the Seattle area due to his ongoing chemotherapy treatments and his need to support his family. His wife and four daughters still live in Richland, Washington.

212. Defendants lack sufficient information to admit or deny the allegations in paragraph 212.

213. Mr. Jihad does odd jobs between chemotherapy treatments for his leukemia in Seattle. Currently, he is a driver for Lyft.

213. Defendants lack sufficient information to admit or deny the allegations in paragraph 213.

214. Mr. Jihad has never left the U.S. since arriving and has no criminal history.

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214. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that USCIS was not aware, during the naturalization process, that Plaintiff Jihad had been convicted of any crime and that Plaintiff Jihad claimed during his naturalization interview that he had not spent any time outside the United States since his entry to the United States.

215. There is no statutory basis for denying his naturalization application.

215. Defendants aver that, not being aware of any statutory basis to deny Plaintiff Jihad's naturalization application, USCIS approved Plaintiff Jihad's naturalization application on May 9, 2017, but Defendants lack sufficient information to admit or deny the allegations in this paragraph.

216. USCIS has repeatedly told Mr. Jihad that his case is pending due to security checks.

216. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that USCIS has, on occasion, informed Plaintiff Jihad that his application was pending due to background checks.

217. Upon information and belief, the FBI's visit and interrogation of Mr. Jihad about his pending naturalization application is the product of CARRP's deconfliction process and indicate that USCIS has subjected his application to CARRP or its successor "extreme vetting" program. This has delayed the adjudication of his application, despite the fact that he is statutorily eligible to naturalize.

217. The allegations in this paragraph constitute Plaintiffs' characterization of Plaintiff Jihad's subjective belief regarding his case, which requires no response. To the extent a response is required, Defendants can neither admit nor deny whether Plaintiff Jihad's application was subjected to CARRP: such information is protected by privilege. Defendants otherwise deny.

218. As Mr. Jihad is a citizen of Iraq, one of the countries targeted in the First EO, USCIS suspended adjudication of his application for adjustment of status under the First EO.

218. Defendants deny the allegations in paragraph 218, except that Defendants admit Plaintiff Jihad has claimed to be a citizen of Iraq, and that Iraq was one of the countries identified in the First EO.

219. Mr. Jihad has been significantly harmed by the delay in adjudication of his naturalization application. With every passing day, Mr. Jihad's health and treatment are being materially harmed by USCIS's delay. His and his family's financial prospects are

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also being negatively affected, creating a strain on the family. The delay has also prevented him from voting in local and national elections.

219. Defendants lack sufficient information to admit or deny the allegations in this paragraph, except that Defendants admit that, prior to Plaintiff Jihad's naturalization, he was not eligible to vote in local and national elections.

Sajeel Manzoor

220. Plaintiff Sajeel Manzoor is a 40-year-old Pakistani national and lawful permanent resident of the United States who currently resides with his family in Newcastle, Washington.

220. Defendants admit that Plaintiff Sajeel Manzoor presented identification documents that show he is a 40-year-old Pakistani national, and that he was a lawful permanent resident before he became a naturalized United States citizen. Defendants lack sufficient information to admit or deny the remaining allegations in this paragraph.

221. Mr. Manzoor came to the United States on August 16, 2001 as a non-immigrant F-1 student to study for a Master of Science in Marketing Research at the University of Texas at Arlington.

221. Defendants admit the allegations in paragraph 221.

222. In 2003, Mr. Manzoor was hired by Taylor Nelson Sofres and granted his first H-1B visa.

222. Defendants lack sufficient information to admit or deny the allegations in this paragraph, but aver that Plaintiff Manzoor was granted H-1B status in the United States in July 2003 based on a petition filed by Taylor Nelson Sofres Intersearch.

223. Mr. Manzoor married his wife on May 11, 2005 in Lahore, Pakistan, and has two children with her. Both of his children are United States citizens.

223. Defendants lack sufficient information to admit or deny the allegations in paragraph 223, but aver that Plaintiff Manzoor submitted documents to USCIS showing he was married.

224. On January 29, 2007, Immigration and Customs Enforcement ("ICE") agents interviewed Mr. Manzoor about his employment history, travel, and contacts inside and outside of the United States.

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224. Defendants lack sufficient information to admit or deny the allegations in paragraph 224.

225. Mr. Manzoor's H-1B visa was temporarily administratively revoked while the Compliance Enforcement Unit in the National Security Investigations Division at ICE Headquarters reviewed his file. His visa was automatically reinstated when he was found in compliance and the case was closed on or about July 3, 2007.

225. Defendants admit USCIS records indicate that Plaintiff Manzoor's H-1B visa was revoked at some time and that there was an investigation conducted by ICE, which was closed on July 3, 2007. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 225.

226. On October 18, 2007, Mr. Manzoor applied for adjustment of status based on a business petition.

226. Defendants admit Plaintiff Manzoor applied for adjustment of status based on an employment-petition, but aver that the filing date of his adjustment of status application was October 12, 2007.

227. On September 18, 2010, Mr. Manzoor was granted lawful permanent resident status.

227. Defendants admit the allegations in paragraph 227.

228. On November 30, 2015, Mr. Manzoor filed his N-400 Application for Naturalization.

228. Defendants admit the allegations in this paragraph 228.

229. Mr. Manzoor has not been scheduled for an interview.

229. Defendants deny the allegations in paragraph 229.

230. On December 2, 2016, the Acting Field Office Director for the Seattle Field Office confirmed that Mr. Manzoor's case is still pending background checks.

230. Defendants admit the allegations in paragraph 230.

231. On December 14, 2016, the Seattle Field Office Directory confirmed that the background checks were still pending and that Mr. Manzoor's wife's naturalization case would be held until after his application was complete.

231. Defendants admit the allegations in paragraph 231.

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232. Mr. Manzoor does not have a criminal history.

232. Defendants aver that, during the naturalization process, USCIS was not aware that Plaintiff Manzoor had ever been convicted of a crime, but Defendants otherwise lack sufficient information to admit or deny the allegations in this paragraph

233. There is no statutory basis for denying his naturalization application.

233. Defendants aver that, being unaware of any statutory basis to deny Plaintiff Manzoor's naturalization application, USCIS approved Plaintiff Manzoor's naturalization application on February 22, 2017. Defendants, however, lack sufficient information to admit or deny the allegations in this paragraph.

234. Upon information and belief, USCIS's three-year delay in adjudicating his adjustment of status and ICE's National Security Investigations Division's additional scrutiny and review indicate that USCIS has subjected Mr. Manzoor's pending naturalization application to CARRP or its successor "extreme vetting" program. This has delayed the adjudication of his application, despite the fact that he is statutorily entitled to naturalize.

234. The allegations in this paragraph constitute Plaintiffs' characterization of Plaintiff Manzoor's subjective belief regarding his case, which requires no response. To the extent the Court requires a response, Defendants can neither admit nor deny whether Plaintiff Manzoor's naturalization application was handled under CARRP; such information is protected by privilege. Defendants otherwise deny.

235. Mr. Manzoor has been significantly harmed by the delay in adjudication of his naturalization application. He has not been able to travel due to fear of not being allowed back into the country, causing him to miss his grandfather's funeral and his sister-in-law's engagement, among other important family events. Feeling that his immigration status is in limbo and that he is being discriminated against on the basis of his national origin and religion have also caused him extreme stress and anxiety. Additionally, the delay has prevented him from voting in local and national elections.

235. Defendants lack sufficient information to admit or deny the allegations in this paragraph, except that Defendants admit that prior to Plainitff Manzoor's naturalization he was ineligible to vote in local and national elections in the United States.

CLASS ACTION ALLEGATIONS

236. Pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), Plaintiffs bring this action on behalf of themselves and all other similarly-situated individuals. Plaintiffs do not bring claims for compensatory relief. Instead, Plaintiffs seek injunctive relief broadly

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applicable to members of the Plaintiff Classes, as defined below. The requirements for Rule 23 are met with respect to the classes defined below.

236. Paragraph 236 constitutes Plaintiffs' characterization of their case and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 236.

237. Plaintiffs seek to represent the following nationwide classes:

> A **Muslim Ban Class** defined as:
> A national class of all persons currently and in the future (1) who are in the United States, (2) have or will have an application for an immigration benefit pending before USCIS, and (3) are a citizen or national of Syria, Iran, Yemen, Somalia, Sudan, or Libya.
> An **Extreme Vetting Naturalization Class** defined as:
> A national class of all persons currently and in the future (1) who have or will have an application for naturalization pending before USCIS, (2) that is subject to CARRP or a successor "extreme vetting" program, and (3) that has not been or will not be adjudicated by USCIS within six months of having been filed.
> An **Extreme Vetting Adjustment of Status Class** defined as:
> A national class of all persons currently and in the future (1) who have or will have an application for adjustment of status pending before USCIS, (2) that is subject to CARRP or a successor "extreme vetting" program, and (3) that has not been or will not be adjudicated by USCIS within six months of having been filed.

237. Paragraph 237 constitutes Plaintiffs' characterizations of their case, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 237.

238. Plaintiffs Wagafe, Ostadhassan, and Bengezi are adequate class representatives of the Muslim Ban Class. Plaintiffs Wagafe, Jihad, and Manzoor are adequate representatives of the Extreme Vetting Naturalization Class. Plaintiffs Ostadhassan and Bengezi are adequate representatives of the Extreme Vetting Adjustment of Status Class.

238. Paragraph 238 constitutes a statement and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 238.

239. The Proposed Classes are each so numerous that joinder of all members is impracticable.

239. Paragraph 239 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants admit that the members

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of the putative classes described in paragraph 239 would be sufficiently numerous as to render joinder of all such persons impracticable.

240. Although Plaintiffs do not know the total number of people from the six countries targeted in the Second EO who have *pending* immigration benefits applications at any given time, publicly available USCIS data reveals that in 2015, there were 83,147 people from those six countries who were *granted* applications for naturalization, lawful permanent residence, asylum, and refugee admission. U.S. Department of Homeland Security, Office of Immigration Statistics, 2015 Yearbook of Immigration Statistics, *available at* https://www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_2015.pdf (showing 31,385 people granted lawful permanent residence (table 3), 30,644 granted refugee admission (table 14), 1,731 granted asylum (table 17) and 19,387 persons naturalized (table 21) from the six countries targeted by the Second EO).

240. Defendants deny the allegations in paragraph 240.

241. Similarly, although Plaintiffs do not know the total number of people subject to CARRP or any successor "extreme vetting" program at any given time, USCIS data reveals that between Fiscal Year 2008 and Fiscal Year 2012, more than 19,000 people from twenty-one Muslim-majority countries or regions were subjected to CARRP. Upon information and belief, between 2008 and 2016, USCIS opened 41,805 CARRP cases.

241. Defendants deny the allegations in the first sentence of this paragraph, but aver that USCIS has produced data stating that between Fiscal Year 2008 and Fiscal Year 2012, more than 19,000 people from the following countries were subject to CARRP: Afghanistan, Egypt, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Pakistan, Saudi Arabia, Somalia, Sri Lanka, Sudan, Syria, Tunisia, Uzbekistan, Yemen, as well as individuals who are stateless. Defendants deny the allegations in the second sentence of this paragraph, but aver that USCIS has produced data stating that as of January 12, 2016, during Fiscal Years 2008-2016, USCIS opened 41,805 CARRP cases.

242. This data includes individuals with pending naturalization and adjustment of status applications. For example, in March 2009, there were 1,437 adjustment of status (I-485) applications subject to CARRP that had been pending for at least six months and 1,065 naturalization (N-400) application subject to CARRP that had been pending for at least six months.

242. Defendants admit that USCIS has previously produced data showing that, in March 2009, there were 1,437 adjustment-of-status applications (Form I-485) being handled under CARRP that had been pending for at least six months, and 1,065

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naturalization applications (Form N-400) being handled under CARRP that had been pending for at least six months.

243. The exact number of individuals subject to the First EO or Second EO, CARRP, or any successor "extreme vetting" program at any given time fluctuates as applications are filed and USCIS applies these policies and practices to the applications. Moreover, members of the class reside in various locations across the country. For these and other reasons, joinder of the members of the Classes would create substantial challenges to the efficient administration of justice. Joinder is thus impracticable here.

243. Defendants admit that the number of individuals whose immigration benefit applications are being handled under CARRP at any given time fluctuates as applications are filed and processed, and that individuals whose applications are being handled under CARRP may reside in various locations around the country. The remaining allegations in this paragraph include characterization of Plaintiffs' case which requires no response. To the extent a response is required, Defendants deny the remaining allegations in this paragraph, except that Defendants admit it would be impracticable to join in this case all the individuals whose applications are being handled under CARRP.

244. In addition, there are questions of law and fact common to the members of the Classes. The Muslim Ban and Extreme Vetting Adjustment of Status Class are subject to Defendants' unauthorized suspension of immigration benefits adjudications. All classes are subject to CARRP (or a successor "extreme vetting" program). Accordingly, common questions of law and fact include, but are not limited to, the following:

- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the Second EO violates Defendants' duty to timely adjudicate immigration benefit applications authorized by the Immigration and Nationality Act;

- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the First or Second EO to Plaintiff Wagafe's, Plaintiff Ostadhassan's and Plaintiff Bengezi's applications violates the Establishment Clause of the First Amendment to the United States Constitution by not pursuing a course of neutrality with regard to different religious faiths;

- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the Second EO and application of CARRP (or a successor "extreme vetting" program) to Plaintiffs' applications discriminates against Plaintiffs on the basis of their country of origin and without sufficient justification, and therefore violates the equal protection component of the Due Process Clause of the Fifth Amendment to the United States Constitution;

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- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the Second EO and application of CARRP (or a successor "extreme vetting" program) to Plaintiffs' applications is substantially motivated by animus toward—and has a disparate effect on—Muslims in violation of the equal protection component of the Due Process Clause of the Fifth Amendment to the United States Constitution;

- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the Second EO and application of CARRP (or a successor "extreme vetting" program) to Plaintiffs are legally entitled, constitutes an arbitrary denial in violation of Plaintiffs' right to substantive due process under the Fifth Amendment to the United States Constitution;

- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the Second EO and application of CARRP (or a successor "extreme vetting" program) to Plaintiffs' applications violates the INA by creating additional, non-statutory, substantive criteria that must be met prior to a grant of a naturalization or adjustment of status application;

- Whether Defendants' unauthorized suspension of immigration benefits adjudications under the Second EO and application of CARRP (or a successor "extreme vetting" program) to Plaintiffs' applications violates the APA, 5 U.S.C. § 706, as final agency action that is arbitrary and capricious, contrary to constitutional law, and in excess of statutory authority;

- Whether Defendants' application of CARRP (or a successor "extreme vetting" program) to Plaintiffs' applications constitutes a substantive rule and, as a result, Defendants violated the APA, 5 U.S.C. § 553, when they promulgated CARRP without providing a notice-and-comment period prior to implementing it;

- Whether Defendants' failure to give Plaintiffs notice of their classification under CARRP (or a successor "extreme vetting" program), a meaningful explanation of the reason for such classification, and a process by which Plaintiffs can challenge their classification violates the Due Process Clause of the Fifth Amendment to the United States Constitution; and

- Whether Defendants' application of CARRP (or a successor "extreme vetting" program) to Plaintiffs Wagafe, Jihad, and Manzoor's applications violates the Uniform Rule of Naturalization, Article I, Section 8, Clause 4 of the United States Constitution by establishing criteria for naturalization not authorized by Congress.

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244. Paragraph 244 constitutes Plaintiffs' characterization of their case, a statement or conclusion of law to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 244.

245. The claims of the named Plaintiffs are typical of their respective Plaintiff Classes. Plaintiffs know of no conflict between their interests and those of the Plaintiff Classes they seek to represent. In defending their own rights, the named Plaintiffs will defend the rights of all proposed Plaintiff Class members fairly and adequately. The members of the Classes are readily ascertainable through notice and discovery.

245. Paragraph 245 constitutes Plaintiffs' characterization of the Complaint, a statement of law, and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 245.

246. Plaintiffs are represented by counsel with particular expertise in immigration and constitutional law, and extensive experience in class action and other complex litigation

246. Defendants lack sufficient information to admit or deny the allegations in paragraph 246.

247. Defendants have acted or refused to act on grounds generally applicable to each member of the Plaintiff Classes by applying additional non-statutory, substantive requirements for naturalization and adjustment of status, including CARRP (or its successor "extreme vetting" program) to their immigration applications and the First EO and/or Second EO—thus causing them to have suffered and continue to suffer injury in the form of unreasonable delays and denials of their applications.

247. Defendants can neither confirm nor deny whether a particular individual's case is subject to CARRP; such information is protected by privilege. This paragraph otherwise constitutes Plaintiff's characterizations of their case and a conclusion of law, to which no response is required. To the extent the Court deems a response necessary, Defendants deny the allegations in this paragraph.

248. A class action is superior to other methods available for the fair and efficient adjudication of this controversy because joinder of all members of the Classes is impracticable. Absent the relief they seek here, there would be no other way for the Plaintiff Class members to individually redress the wrongs they have suffered and will continue to suffer.

248. Paragraph 248 constitutes Plaintiffs' characterization of the Complaint, a statement of law, and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 248.

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CAUSES OF ACTION

FIRST CLAIM FOR RELIEF
Immigration and Nationality Act and the Administrative Procedure Act (Plaintiffs Wagafe, Ostadhassan and Bengezi on behalf of themselves and the Muslim Ban Class)

249. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

249. Paragraph 249 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

250. Section 212(f) of the Immigration and Nationality, 8 U.S.C. § 1182(f), is entitled "Suspension of Entry or Imposition of Restrictions by President." That provision authorizes the President to suspend entries or impose restrictions on entries. That provision does not authorize the President to suspend adjudication of immigration petitions, applications, or requests of any class of persons.

250. Paragraph 250 constitutes a statement of the law, to which no response is required. To the extent the Court requires a response, Defendants aver that 8 U.S.C. 1182(f) speaks for itself.

251. Defendants have interpreted the First EO and will interpret the Second EO to authorize the suspension of immigration petitions, applications, or requests involving Plaintiff Wagafe, Plaintiff Ostadhassan, Plaintiff Bengezi, and members of the Muslim Ban Class.

251. Defendants deny the allegations in this paragraph, and aver that on January 28, 2017, USCIS temporarily suspended adjudication of all applications, petitions, or requests involving citizens or nationals of the listed countries while it awaited further guidance, and that on February 2, 2017, USCIS determined that the Section 3(c) of the First EO did not affect applications, petitions, or requests filed by or on behalf of individuals in the United States, regardless of nationality. Defendants further aver that the Second EO in no way purports to suspend the adjudication of adjustment-of-status and naturalization applications by aliens present in the United States.

252. Accordingly, Defendants will suspend adjudication of such immigration benefits petitions, applications, or requests.

252. Defendants deny the allegations in paragraph 252.

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253. Defendants' actions in suspending adjudications will violate 8 U.S.C. § 1182(f) and will be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; and without observance of procedure required by law, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A)-(D).

253. Paragraph 253 constitutes Plaintiffs' characterization of their case and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 253.

SECOND CLAIM FOR RELIEF
Mandamus (28 U.S.C. § 1361)
(Plaintiffs Wagafe, Ostadhassan and Bengezi on behalf of themselves and the Muslim Ban Class)

254. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

254. Paragraph 254 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

255. Defendants have a duty to adjudicate all immigrant benefits petitions, applications or requests authorized by the Immigration and Nationality Act, implementing regulations, or other law.

255. Paragraph 253 constitutes a statement of law, to which no response is required.

256. The First and Second EOs do not authorize the suspension of adjudication of immigration benefits petitions, applications, or requests.

256. Defendants deny the allegations in paragraph 256, and instead aver that on January 28, 2017, USCIS temporarily suspended adjudication of all applications, petitions, or requests involving citizens or nationals of the listed countries while it awaited further guidance and that on February 2, 2017, USCIS determined that the Section 3(c) of the First EO did not affect applications, petitions, or requests filed by or on behalf of individuals in the United States, regardless of nationality. Defendants further aver that the Second EO in no way purports to suspend the adjudication of adjustment-of-status and naturalization applications by aliens present in the United States.

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257. Defendants have interpreted the First EO and will interpret the Second EO to authorize the suspension of immigration benefit applications for petitions, applications, or requests involving Plaintiff Wagafe, Plaintiff Ostadhassan, Plaintiff Bengezi, and members of the Muslim Ban Class.

257. Defendants deny the allegations in paragraph 257.

258. Accordingly, Defendants will suspend adjudication of immigration benefits petitions, applications, or requests.

258. Defendants deny the allegations in paragraph 258.

259. Defendants' refusal to adjudicate immigration benefits petitions, applications, or requests will violate Defendants' statutory and constitutional duty to adjudicate these matters, and to do so in a nondiscriminatory manner.

259. Paragraph 259 constitutes Plaintiffs' characterizations of their case and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 259.

THIRD CLAIM FOR RELIEF
First Amendment (Establishment Clause)
(Plaintiffs Wagafe, Ostadhassan and Bengezi on behalf of themselves and the Muslim Ban Class)

260. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

260. Paragraph 260 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

261. The First EO was and Second EO is intended to target a specific religious faith—Islam. The First EO gave preference to other religious faiths—principally Christianity—and the Second EO has that intended effect when applied to Plaintiffs and members of the Muslim Ban Class. Defendants' application of the First EO and Second EO to Plaintiffs and members of the Plaintiff Classes violates the Establishment Clause of the First Amendment to the United States Constitution by not pursuing a course of neutrality with regard to different religious faiths.

261. Defendants deny the allegations in paragraph 261.

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FOURTH CLAIM FOR RELIEF
Fifth Amendment (Procedural Due Process)
(All Plaintiffs on behalf of themselves and the Plaintiff Classes)

262. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

262. Paragraph 262 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

263. Defendants' failure to give Plaintiffs and members of the Extreme Vetting Naturalization and Extreme Vetting Adjustment of Status Classes notice of their classification under CARRP (or successor "extreme vetting" program), a meaningful explanation of the reason for such classification, and any process by which Plaintiffs can challenge their classification, violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

263. Defendants can neither confirm nor deny whether a particular individual's case is subject to CARRP; such information is protected by privilege. Otherwise this paragraph constitutes Plaintiff's characterizations of their case and a conclusion of law, to which no response is required. To the extent the Court deems a response necessary, Defendants deny the allegations in this paragraph.

264. Because of these violations of their constitutional rights, Plaintiffs and members of the Plaintiff Classes have suffered and continue to suffer injury in the form of unreasonable delays and unwarranted denials of their immigration applications.

264. Paragraph 264 constitutes Plaintiffs' characterization of the Complaint, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 264.

FIFTH CLAIM FOR RELIEF
Fifth Amendment (Substantive Due Process)
(All Plaintiffs on behalf of themselves and the Plaintiff Classes)

265. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

265. Paragraph 265 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

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266. Defendants' unauthorized and indefinite suspension of the adjudication of Plaintiffs' and the Proposed Classes' applications for immigration benefits violates their right to substantive due process under the Fifth Amendment to the United States Constitution, because Plaintiffs cannot be denied immigration benefits for which they are statutorily eligible, and to which they are entitled by law, in an arbitrary manner.

266. Paragraph 266 constitutes Plaintiffs' characterizations of their case and a conclusion of law, to which no response is required. To the extent the Court deems a response necessary, Defendants deny the allegations in this paragraph.

SIXTH CLAIM FOR RELIEF
Fifth Amendment (Equal Protection)
(All Plaintiffs on behalf of themselves and the Plaintiff Classes)

267. Plaintiffs incorporate the allegations of the proceeding paragraphs as if fully set forth herein.

267. Paragraph 267 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

268. Defendants' indefinite suspension of the adjudication of Plaintiffs' applications for immigration benefits on the basis of their country of origin, and without sufficient justification, violates the equal protection component of the Due Process Clause of the Fifth Amendment.

268. Paragraph 268 constitutes Plaintiffs' characterizations of their case and a conclusion of law to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 268.

269. Additionally, Defendants' indefinite suspension of the adjudication of Plaintiff Wagafe's, Plaintiff Ostadhassan's, Plaintiff Bengezi's, and the Muslim Ban Class' applications for immigration benefits under the First and Second EOs was and is substantially motivated by animus toward—and has a disparate effect on—Muslims, which also violates the equal protection component of the Due Process Clause of the Fifth Amendment.

269. Paragraph 269 constitutes Plaintiffs' characterizations of their case and a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 269.

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270. Applying a general law in a fashion that discriminates on the basis of religion violates Plaintiffs' and the Plaintiff Classes' rights to equal protection under the Fifth Amendment Due Process Clause.

270. Paragraph 270 constitutes Plaintiffs' characterizations of their case and a conclusion of law, to which no response is required.

271. The Second EO is intended and will be applied primarily to exclude individuals on the basis of their national origin and religion.

271. Defendants deny the allegations of paragraph 271, but aver that that the Second EO, by its terms, temporarily suspend entry into the United States by certain nationals of Syria, Iran, Yemen, Sudan, Somalia, and Libya, subject to case-by-case waivers.

272. Defendants have applied the First EO and will apply the Second EO with discriminatory animus and discriminatory intent in violation of the equal protection component of the Fifth Amendment.

272. Defendants deny the allegations in paragraph 272.

SEVENTH CLAIM FOR RELIEF
Immigration and Nationality Act and Implementing Regulations
(Plaintiffs on behalf of themselves and the Extreme Vetting Naturalization and Extreme Vetting Adjustment of Status Classes)

273. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

273. Paragraph 273 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

274. To secure naturalization and adjustment of status, an applicant must satisfy certain statutorily-enumerated criteria.

274. Defendants admit the allegations in paragraph 27.

275. By its terms, CARRP creates additional, non-statutory, substantive adjudicatory criteria.

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275. Paragraph 275 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 275.

276. Accordingly, CARRP violates 8 U.S.C. § 1427, 8 C.F.R. § 316.2, and 8 C.F.R. § 335.3, as those provisions set forth the exclusive applicable statutory and regulatory criteria for a grant of naturalization.

276. Paragraph 276 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 276.

277. CARRP also violates 8 U.S.C. § 1255, 8 U.S.C. § 1159, 8 C.F.R. § 245.1, and 8 C.F.R. § 209.1, as those provisions set forth the applicable statutory and regulatory criteria for individuals present in the United States to adjust their status.

277. Paragraph 277 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 277, except that Defendants admit the statutory and regulatory provisions cited in paragraph 277 do set forth criteria for adjustment of status.

278. Because of these violations and/or because CARRP's additional, non-statutory, substantive criteria have been applied to their applications, Plaintiffs and Plaintiff Class members have suffered and will continue to suffer injury in the form of unreasonable delays and unwarranted denials of their applications for naturalization and adjustment of status.

278. Defendants can neither confirm nor deny whether a particular individual's case is subject to CARRP; such information is protected by privilege. Otherwise this paragraph constitutes Plaintiff's characterizations of their case and a conclusion of law to which no response is required. To the extent the Court deems a response necessary, Defendants deny the allegations in this paragraph.

EIGHTH CLAIM FOR RELIEF
Administrative Procedure Act (5 U.S.C. § 706)
(Plaintiffs on behalf of themselves and the Extreme Vetting Naturalization and Extreme Vetting Adjustment of Status Classes)

279. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

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279. Paragraph 279 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

280. CARRP constitutes final agency action that is arbitrary and capricious because it "neither focuses on nor relates to a [noncitizen's] fitness to" obtain the immigration benefits subject to its terms. *Judulang v. Holder*, 132 S. Ct. 476, 485 (2011).

280. Paragraph 280 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 280.

281. CARRP is also not in accordance with law, is contrary to constitutional rights, and is in excess of statutory authority because it violates the INA and exceeds USCIS's statutory authority to implement (not create) the immigration laws, as alleged herein.

281. Paragraph 281 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 281.

282. As a result of these violations, Plaintiffs and members of the Proposed Extreme Vetting Naturalization and Extreme Vetting Adjustment of Status Classes have suffered and continue to suffer injury in the form of unreasonable delays and unwarranted denials of their immigration applications.

282. Paragraph 282 constitutes Plaintiffs' characterization of the Complaint, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 282.

NINTH CLAIM FOR RELIEF
Administrative Procedure Act (Notice and Comment
(Plaintiffs on behalf of themselves and the Extreme Vetting Naturalization and Extreme Vetting Adjustment of Status Classes)

283. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

283. Paragraph 283 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

284. The APA, 5 U.S.C. § 553, requires administrative agencies to provide a notice-and-comment period prior to implementing a substantive rule.

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284. Paragraph 284 constitutes a statement of law, to which no response is required.

285. CARRP constitutes a substantive agency rule within the meaning of 5 U.S.C. § 551(4).

285. Paragraph 285 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 285.

286. Defendants failed to provide a notice-and-comment period prior to the adoption of CARRP.

286. Paragraph 286 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants admit CARRP was not adopted through the notice-and-comment rulemaking process, and aver that such process was not required.

287. Because CARRP is a substantive rule promulgated without the notice-and-comment period, it violates 5 U.S.C. § 553 and is therefore invalid.

287. Paragraph 287 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 287.

288. As a result of these violations, Plaintiffs and members of the Plaintiff Classes have suffered and continue to suffer injury in the form of unreasonable delays and unwarranted denials of their immigration applications.

288. Paragraph 288 constitutes Plaintiffs' characterization of the Complaint, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 288.

TENTH CLAIM FOR RELIEF
"Uniform Rule of Naturalization"
(Plaintiffs Wagafe, Jihad, and Manzoor on behalf of themselves and the Naturalization Class)

289. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

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289. Paragraph 289 incorporates the allegations of the preceding paragraphs as if fully set forth therein. Defendants incorporate their answers to the allegations of the proceeding paragraphs as if fully set forth herein.

290. Congress has the sole power to establish criteria for naturalization, and any additional requirements not enacted by Congress are ultra vires.

290. Paragraph 290 constitutes a conclusion of law, to which no response is required.

291. By its terms, CARRP creates additional, non-statutory, substantive criteria that must be met prior to a grant of a naturalization application.

291. Defendants deny the allegations in paragraph 291.

292. Accordingly, CARRP violates Article I, Section 8, Clause 4 of the United States Constitution.

292. Paragraph 292 constitutes a conclusion of law, to which no response is required. To the extent the Court requires a response, Defendants deny the allegations in paragraph 292.

293. Because of this violation and because CARRP's additional, non-statutory, substantive criteria have been applied to their applications, Plaintiffs Wagafe, Jihad, Manzoor, and the Naturalization Plaintiff Class members have suffered and will continue to suffer injury in the form of unreasonable delays and unwarranted denials of their naturalization applications.

293. Defendants can neither confirm nor deny whether a particular individual's case is subject to CARRP; such information is protected by privilege. Otherwise this paragraph constitutes Plaintiff's characterizations of their case and a conclusion of law to which no response is required. To the extent the Court deems a response necessary, Defendants deny the allegations in this paragraph.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court grant the following relief:

1. Certify the case as a class action as proposed herein;

2. Appoint Plaintiffs Wagafe, Ostadhassan and Bengezi as representatives of the Muslim Ban Class;

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3. Appoint Plaintiffs Wagafe, Jihad, and Manzoor as representatives of the Extreme Vetting Naturalization Class;

4. Appoint Plaintiffs Ostadhassan and Bengezi as representatives of the Extreme Vetting Adjustment of Status Class;

5. Order Defendants to adjudicate the petitions, applications, or requests of Plaintiffs and members of the proposed classes;

6. Order Defendants to adjudicate Plaintiffs' and proposed class members' petitions, applications, or requests based solely on the statutory criteria;

7. Declare Sections 2(c), 4 and 5 of the Second EO contrary to the Constitution and the INA;

8. Issue an order enjoining Defendants from applying Sections 2(c), 4 and 5 to Plaintiffs and members of the proposed classes;

9. Declare that CARRP or any successor "extreme vetting" program violates the Constitution, the INA, and the APA;

10. Enjoin Defendants, their subordinates, agents, employees, and all others acting in concert with them from applying CARRP or any successor "extreme vetting" program to the processing and adjudication of the immigration benefit petitions, applications, or requests of Plaintiffs and members of the proposed classes;

11. Order Defendants to rescind CARRP or any successor "extreme vetting" program because they failed to follow the process for notice and comment by the public;

12. Alternatively, order Defendants to provide Plaintiffs and members of the proposed classes with notice that they have been subjected to CARRP or any successor "extreme vetting" program, the reasons for subjecting them to CARRP or any successor "extreme vetting" program, and a reasonable opportunity to respond to those allegations before a neutral decision-maker;

13. Award Plaintiffs and other members of the proposed class reasonable attorneys' fees and costs; and

14. Grant any other relief that this Court may deem fit and proper.

The remainder of the Complaint constitutes Plaintiffs' prayer for relief, to which no response is required. To the extent the Court requires a response, Defendants deny that Plaintiffs are entitled to any relief whatsoever.

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GENERAL DENIAL

To the extent an allegation is not specifically admitted herein, any and all allegations in the Complaint are denied.

AFFIRMATIVE DEFENSES

Although Defendants do not have specific facts in support of affirmative defenses, they reserve the right to raise any of the affirmative defenses set forth in Federal Rule of Civil Procedure 8, should subsequent discovery disclose facts that support those defenses. Defendants further reserve the right to prepare and plead any and all defenses which may become applicable during the course of this litigation.

Dated: July 12, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 12, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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