

The Honorable Lauren King

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ABDIQAFAR WAGAFE, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, President of the United
States, *et al.*,

Defendants.

No. 2:17-cv-00094-LK

JOINT STATUS REPORT

On October 28, 2022, the Court approved the parties' joint stipulation to stay adjudication of the claims for the "Adjustment Class," one of two classes certified in this case. (Dkt. 613). The stipulation noted that the parties agreed that "it will promote efficiency and conservation of judicial resources to stay the litigation as to the Adjustment Class claims in favor of proceeding first to an adjudication of the Naturalization Class claims." *Id.* at 1. The parties also agree "that resolving the Naturalization Class claims may pave the way for a resolution of the Adjustment Class claims and thereby avoid the need for the Court to confront a jurisdictional question potentially unnecessary to the resolution of this lawsuit." *Id.* at 2. In approving the stay of the Adjustment Class claims, the Court ordered the parties to jointly notify the Court every 90 days whether they wish the stay of the Adjustment Class claims to continue. *Id.* at 2-3, ¶4. The parties offer this joint status report in satisfaction of that requirement, and to provide their respective positions on the status of this case.

1 **I. STAY OF ADJUSTMENT CLASS CLAIMS**

2 The parties would like the stay of the Adjustment Class claims to continue for the reasons
3 described in their prior joint stipulation, Dkt. 613.

4 **II. STATUS OF THE CASE**

5 **A. Plaintiffs’ Statement**

6 On February 11, 2022, the parties asked this Court to stay proceedings “pending an
7 agency-wide internal review of USCIS policies and procedures for identifying and assessing
8 national security risks presented in immigration benefit applications.” (Dkt. 589). The Court
9 approved the joint stipulation on February 22 and stayed proceedings until June 9, 2022. (Dkt.
10 592, as amended by Dkt. 594).

11 In May 2022, Defendants apprised the Court that USCIS was “expect[ed] to complete
12 [its] review of [the Controlled Application Review and Resolution Program (CARRP)] by May
13 10, 2022,” and noted that “[a]ssuming final approval of the new policy by USCIS leadership,” a
14 new policy superseding CARRP would be finalized shortly thereafter. (Dkt. 596 at 1).

15 However, as of today’s date, Defendants still have not finalized a new superseding
16 CARRP policy, nor are they able to offer a timeline for its completion. Defendants have not
17 shared with Plaintiffs any details about the contents of the potential new policy, and thus
18 Plaintiffs have no way of knowing to what extent the new policy, should it be adopted, will
19 resolve any of the legal issues in this case.

20 The Court-approved stay of this case expired in June 2022. Pending before this Court are
21 the parties’ cross-motions for summary judgment, which have been fully briefed since July 2021,
22 and several other procedural motions, as summarized below. **Plaintiffs respectfully ask the**
23 **Court move forward with adjudicating these motions.** Plaintiffs filed this case in January
2017. Over the intervening six years, thousands of members of the Plaintiffs’ classes have been
negatively affected by USCIS’s application of the CARRP policy to their applications for
naturalization. Many class members suffered the worst consequences. USCIS denied their

1 applications to become U.S. citizens—denials that Plaintiffs allege were unlawfully dictated by
2 CARRP—leading to disruption of their lives in the United States, family separation, loss of
3 employment and educational opportunities, among other harms. Plaintiffs seek both retrospective
4 relief for class members wrongfully denied these critical benefits, as well as prospective relief
5 against the ongoing operation of the policy. They are eager for a resolution of this case on the
6 merits of their claims, so that they may finally obtain the relief they seek.

7 Accordingly, Plaintiffs respectfully request that the Court:

8 (1) Move forward with adjudication of the pending motions, including setting oral
argument:

- 9 a. The parties’ cross-motions for summary judgment, which are noted for
10 consideration (Dkt. 595 (Plaintiffs’ Motion for Summary Judgment; Defendants’
11 Opposition and Cross-Motion for Summary Judgment; Plaintiffs’ Reply and
12 Cross-Opposition; and Defendant’s Reply));
- 13 b. The parties’ outstanding motions to exclude expert witnesses (Dkts. 459, 463,
14 484, 485 (Siskin); 474, 475, 476, 489, 493, 505, 506, 507 (Kruskol); 477, 478,
15 480, 490, 496, 497, 499, 504 (Gairson, Arastu, Ragland));
- 16 c. Joint Response to January 31, 2022 Order to Consolidate Positions on Material to
17 be Sealed Or Designated as HSD (“Joint Statement”). On January 31, 2022, this
18 Court entered an order (Dkt. No. 587) striking seventeen pending motions to seal
19 or treat filings as “highly sensitive documents” (“HSDs”). See Dkt. Nos. 459,
20 464, 465, 474, 479, 484, 489, 496, 501, 505, 513, 514, 543, 544, 562, 564, 578.
21 In addition, the Court ordered the parties to file “a joint statement concisely
22 consolidating their positions on the materials they want sealed[.]” Dkt. No. 587 at
23 1. On September 30, 2022, the Parties filed their Joint Statement See Dkt. 609,
609-1, and 609-2.

(2) Set a trial date and associated pre-trial deadlines.

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1 **B. Defendants' Statement:**

2 USCIS continues to move toward completion of its new policy for vetting immigration
3 benefit applicants for national security concerns. It is anticipated that this new policy will
4 completely replace the current USCIS policy, the Controlled Application Review and Resolution
5 Program (CARRP). The CARRP policy is the basis of Plaintiffs' complaint and the subject of
6 the cross-motions for summary judgment that are pending before the Court.

7 Given the complexities inherent in policy development, USCIS is unable to commit to a
8 specific date for the issuance of its new national security policy. All along, Defendants have
9 provided Plaintiffs status updates, including when USCIS hoped to have the new policy
10 completed, while always emphasizing that it could not make guarantees. As Defendants have
11 explained from the beginning, because policy development is complex, it would not make such
12 guarantees. However, USCIS remains committed and continues efforts to complete the new
13 policy.

14 Defendants appreciate Plaintiffs' desire to move forward with the adjudication of the
15 cross-motions for summary judgment. At present, no stay of the Naturalization Class claims is in
16 place. However, Defendants strongly believe that the new policy will render Plaintiffs' claims
17 concerning CARRP moot in whole or in part, and may pave the way for a settlement of the case
18 or, at a minimum, a substantial narrowing of the issues that the Court has to consider. Therefore,
19 Defendants believe that the interest in preserving precious judicial resources and the avoidance
20 of unnecessary adjudication weighs in favor of further forbearance while USCIS continues to
21 move its new national security vetting policy towards fruition. Defendants will promptly notify
22 the Court when the new policy is finalized. Defendants also fully intend to share a copy of the
23 policy with Plaintiffs' counsel at that time so that the parties may work toward a mutual
agreement regarding any issues no longer in dispute or discuss settlement of the case, as
appropriate.

1 Dated: January 26, 2023

Respectfully Submitted,

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