

Exhibit A

From: [Sepe, Cristina \(Perkins Coie\)](#)
To: [Kipnis, Brian \(USAWAW\)](#); [Busen, Jesse \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Brinkman, Andrew \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#); [Moore, Brendan T. \(CIV\)](#); [Braga, Victoria M. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Bowen, Brigham \(CIV\)](#)
Cc: ["Jennie Pasquarella"](#); ["Matt Adams \(matt@nwirp.org\)"](#); [Gellert, Nicholas \(Perkins Coie\)](#); [Perez, David A. \(Perkins Coie\)](#); [Hyatt, Heath \(Perkins Coie\)](#)
Subject: RE: Wagafe v. Trump: Proposed Extension Request and A-Files Agreement
Date: Friday, August 02, 2019 1:17:28 PM
Attachments: [Stipulation for Order Revising Case Schedule + Plaintiff Redline.docx](#)

Counsel:

Thank you for preparing the proposed stipulation. We've attached a redline incorporating a minor nit and edits to Plaintiffs' signature block. If these changes look okay with you, you have our agreement to file the stipulation.

Regarding the government's clarifications for initial disclosures, we agree that the August 31, 2019 deadline to supplement will be mutually binding and that they should not be considered "final" consistent with the requirements of FRCP 26(e).

Thank you,

Cristina

Cristina Sepe | Perkins Coie LLP

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Subject: RE: Wagafe v. Trump: Proposed Extension Request and A-Files Agreement

Great Cristina. Thanks!

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Subject: RE: Wagafe v. Trump: Proposed Extension Request and A-Files Agreement

Thank you for circulating this proposed stipulation. Counsel for plaintiffs will review and follow up by tomorrow morning.

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Subject: RE: Wagafe v. Trump: Proposed Extension Request and A-Files Agreement

Cristina and other Counsel:

Thank you for forwarding your counter-proposal. We have reviewed it carefully and offer the following in response.

We are attaching a draft stipulation for your review. We have noted any alterations from your original proposal (aside from the added WHEREAS clauses) by highlighting them.

Also, we wanted to explain a few specific areas where our proposal differs from yours.

(1) We have included a deadline to file the administrative record (CAR). The CAR was already provided to you some months ago, but we held off on filing the record because of the prospect that we might have to move the Court to allow defendants to file the CAR under seal. While we view this mainly as a housekeeping matter, please let us know if it raises any questions or concerns for plaintiffs.

(2) We have broadened the "Deadline to File Motions to Compel" to "Deadline to File Discovery-Related Motions." Although, we have no expectation at this time of filing discovery-related motions, the ability to do so should inure to both parties.

(3) Recognizing that the time immediately before and after Christmas Day is problematic for both attorneys and experts, we suggest moving forward by three weeks all dates starting with the December 20, 2019 "Responsive Expert Witness Disclosure/ Reports Under FRCP 26(a)(2) Due" (Note that the date for Trial Briefs was placed on the Friday before the Memorial Day federal holiday, instead of the following Tuesday).

Lastly, we want to clarify our position on a point raised in your July 31, 2019, e-mail to ensure that we have a meeting of the minds.

In your e-mail you state:

"Plaintiffs will agree to an August 31, 2019 deadline for the government to produce outstanding

documents, privilege logs, final supplemental initial disclosures, and Plaintiffs' Supplemental Objections and Answers to Defendants' First Set of Interrogatories."

First, it was our intention that the August 31, 2019 deadline to supplement initial disclosures and discovery be mutually binding on both parties. We have recently supplemented our initial disclosures, and we fully intend to provide any additional supplementation to plaintiffs by that date. Our expectation was, and continues to be, that plaintiffs will also provide any appropriate supplemental information to defendants by August 31, 2019. Please let us know if you do not agree with this clarification.

Second, we inadvertently suggested that all "final" supplements to initial disclosures be made by August 31st. We think the term "final" in relation to a duty to supplement was inappropriate and confusing. As you know, parties have a continuing obligation under the FRCP to supplement their initial disclosures and discovery "in a timely manner," and that obligation persists throughout the course of a lawsuit. Thus, as noted above, while we believe the parties have made a commitment to provide supplemental information by August 31, 2019, the supplement cannot be in any sense "final." If defendants obtain information after August 31, 2019, that creates a duty to supplement under the FRCP, we intend to do so. Our expectation, of course, is that plaintiffs will do the same. Again, please let us know immediately if your understanding differ from ours.

Given that we have deadlines in the case that expire tomorrow (Friday) we would appreciate a response sooner rather than later.

Thank you again for your continuing willingness to work together with us on these issues.

Brian

Brian C. Kipnis, AUSA
(206) 553-7970

From: Sepe, Cristina (Perkins Coie) <CSepe@perkinscoie.com>

Sent: Wednesday, July 31, 2019 9:13 AM

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Subject: Wagafe v. Trump: Proposed Extension Request and A-Files Agreement

Dear Counsel:

Thank you for your email.

First, Plaintiffs agree to the proposal regarding A-Files as described in Ms. Braga's July 25, 2019 email.

Second, turning to the government's proposal in Mr. Busen's July 23, 2019 email, Plaintiffs agree that a bifurcated timeline for concluding discovery is needed in this case but disagree as to some of the details of the proposal.

Plaintiffs will agree to an August 31, 2019 deadline for the government to produce outstanding documents, privilege logs, final supplemental initial disclosures, and Plaintiffs' Supplemental Objections and Answers to Defendants' First Set of Interrogatories. Plaintiffs also agree to September 27, 2019 as the final discovery cut-off for resolving the categories enumerated the July 23, 2019 email. Consistent with what Plaintiffs expressed at the meet and confer, Plaintiffs request an additional three weeks following the close of discovery—until October 18, 2019—to review the government's productions, raise any potential issues with the government, and possibly move to compel. We do not agree to the

government's proposal that any further motions to compel must be limited by the 30-day period preceding receipt of discovery responses or productions made, particularly given the gap in time between the government's productions and the privilege logs and supporting affidavits.

We propose that the remaining case schedule track the current schedule as follows:

Event	Current Schedule	Plaintiffs' Proposed Schedule
Length of Trial	5 days	5 days
Deadline to Complete Discovery (other than expert discovery and all depositions), which extension does not authorize new written discovery requests (other than requests to admit) or subpoenas for document production	July 26, 2019	September 27, 2019
Deadline to File Motions to Compel		October 18, 2019
Expert Witness Disclosures/Reports Under FRCP 26(a)(2) Due	September 6, 2019	November 29, 2019
Deadline for Depositions (other than of experts)	September 20, 2019	December 13, 2019
Responsive Expert Witness Disclosure/ Reports Under FRCP 26(a)(2) Due	September 27, 2019	December 20, 2019
Deadline to Complete Expert Discovery (including all expert depositions)	October 21, 2019	January 13, 2020
All dispositive motions must be filed on or before November 18, 2019, and noted for December 20, 2019	November 18, 2019	February 10, 2020
All motions in limine must be filed by and noted on the motion calendar no later than three Fridays thereafter pursuant to LCR7(d)(4)	January 20, 2020	April 13, 2020
Agreed Pretrial Order due	January 31, 2020	April 24, 2020
Pretrial conference	To be set by the Court	
Trial briefs, deposition designations, and trial exhibits due	February 10, 2020	May 4, 2020

If this proposal is amenable to the government, could you please circulate a draft stipulation?

Thank you,

Cristina

Cristina Sepe | Perkins Coie LLP

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Subject: Wagafe v. Trump: proposed extension request

Dear counsel,

At today's meet and confer, the parties agreed in principle to the random selection and production of 4 new A-files, as well as the need to extend the discovery and case-related schedule for various purposes. Because the latter item is more immediate (in light of the Court's July 24th deadline for any re-productions of the 5 named-plaintiff A-files), we have drafted the extension proposal for your consideration prior to that deadline, and will forward to you later in the week a memorialization of our agreement on the former item, the random A-files.

The following draft proposal commits to hard deadlines regarding the production of most outstanding discovery materials, while allowing a reasonable time-frame for producing remaining materials for which there are presently unknown factors. Those presently-uncertain items include the following categories: (1) Completing reproduction of the 43 documents requested by Plaintiffs -- presently unknown and subject to continuing negotiation, but currently projected to be August 5; (2) Categories of information potentially subject to classification review -- at present, approximately 500 documents, but most likely to further decrease and be resolved within the extension period; (3) Random A-file pull and production -- currently projected as August 9 for the pull, followed by a meet and confer to agree on a new production deadline based on review of actual A-files; (4) Reproduction of 5 named-plaintiff A-files -- currently projected completion by September 6; (5) Proto-logs -- under negotiation; and (6) Clawbacks -- manageable within the extension period.

We propose an August 31 deadline to produce anything that does not fall into these foregoing categories, namely all other outstanding documents, privilege logs, final supplemental initial disclosures, and Plaintiffs' supplemental answers to Defendants' First Set of Interrogatories. We propose September 27, 2019, as a final discovery cut-off for resolving all other categories enumerated above.

Moreover, we propose that any further motions to compel filed by the parties shall be limited to discovery responses or production that are made, or that a party fails to make, within the 30 day period immediately preceding the filing of any such motion to compel.

The goal of this bifurcated timeline which includes a hard deadline (August 31) as to knowable discovery tasks, with an extended deadline (September 27) for matters involving presently uncertain, but developing factors, is to produce as many documents as possible as early as possible to ease the burden on Plaintiffs' counsel. Per these deadlines, the vast majority of outstanding documents will be produced by August 31, providing Plaintiffs four weeks to review those documents prior to the close of discovery. The proposed schedule also includes time to account for unknowables such as delays in producing documents from Relativity, potential clawbacks, and any further negotiations regarding the protologs.

Please let us know as soon as possible if the foregoing is agreeable, and we will forward a stipulated motion for your review.

Jesse Lloyd Busen

Trial Attorney

Office of Immigration Litigation

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Exhibit B

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf
of themselves and others similarly situated,

Plaintiffs,

v.

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

Defendants.

No. 2:17-cv-00094-RAJ

**PLAINTIFFS' INITIAL EXPERT
DISCLOSURES**

Pursuant to Federal Rule of Civil Procedure 26(a)(2) and the Court's December 18, 2019 Text Order re: Reset Deadlines, Plaintiffs make the following initial expert disclosures. Plaintiffs will supplement and/or amend this disclosure as appropriate. Should new information become known to Plaintiffs after this date which necessitates supplementing these disclosures, Plaintiffs hereby expressly reserve the right to supplement consistent with Rules 26(a)(2)(E) and 26(e) of the Federal Rules of Civil Procedure. The absence of any information herein shall not prohibit Plaintiffs from supplementing at a later date and shall not foreclose Plaintiff from offering that information in the form of evidence at trial, so long as Plaintiffs properly supplement as allowed under the Federal Rules of Civil Procedure.

Plaintiffs expect to disclose 11 expert witnesses with reports and expected testimonies on the following subjects:

1 1. Expert witness A’s field of expertise is statistical analysis. This expert witness’s
2 report and expected testimony will provide a statistical analysis of data that the government has
3 provided or will provide to Plaintiffs regarding applicants for immigration benefits who are
4 subject to CARRP, and the delays and adjudicative outcomes of applications subject to CARRP.

5 2. Expert witness B’s field of expertise is intelligence and counterterrorism. This
6 expert witness’s report and expected testimony will address the effectiveness of CARRP in
7 identifying national security concerns, including the sources and methods used by USCIS to
8 identify such concerns. This expert witness’s report and expected testimony will also address
9 whether CARRP criteria, methods, and procedures are effective from a counterterrorism
10 standpoint, and whether CARRP vetting serves the government’s interest in national security or
11 counterterrorism.

12 3. Expert witness C’s field of expertise is law enforcement and federal, state, and
13 local policing. This expert witness’s report and expected testimony will address whether
14 CARRP criteria, methods, and procedures are effective from a law enforcement standpoint, and
15 whether CARRP vetting serves the government’s interest in national security or
16 counterterrorism.

17 4. Expert witness D’s field of expertise is counterterrorism and national security.
18 This expert witness’s report and expected testimony will address whether CARRP criteria,
19 methods, and procedures are effective from a national security standpoint, and whether CARRP
20 vetting serves the government’s interest in national security or counterterrorism.

21 5. Expert witness E’s field of expertise is immigration and national security law.
22 This expert witness has specific experience representing clients who are Muslim or from
23 Muslim-majority countries, who are subject to CARRP, and/or who face terrorism- and security-
24 related bars to admission. The expert witness’s report and expected testimony will discuss
25 CARRP’s effect on the adjudication of immigration benefit applications, the impact of CARRP
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1 on applicants and their families, and general background information on immigration law and
2 procedure.

3 6. Expert witness F's field of expertise is immigration and national security law,
4 including specific experience representing clients who are Muslim or from Muslim-majority
5 countries, who are subject to CARRP, and/or who face terrorism- and security-related bars to
6 admission. This expert witness's report and expected testimony will address immigration law
7 and procedure, the impact of CARRP on the adjudication of immigration benefit applications,
8 and the impact CARRP has on individuals and their families. This expert witness's report and
9 expected testimony will also address the application and impact of CARRP on Named Plaintiffs.

10 7. Expert witness G's field of expertise is immigration law and the vetting,
11 processing, and adjudication of CARRP cases. This expert witness's report and expected
12 testimony will address the investigation, vetting, and adjudication of CARRP cases based on the
13 witness's training and experience as a former immigration officer at USCIS. The witness is no
14 longer employed by the federal government.

15 8. Expert witness H's field of expertise is immigration law. This expert witness's
16 report and expected testimony will address the pretextual nature of CARRP denials with a
17 particular focus on the use of false testimony allegations to deny naturalization applications. The
18 witness will also address the harms of the CARRP program on Muslim communities in the
19 United States.

20 9. Expert witness I's field of expertise is Iran, including the Revolutionary Guard
21 and the Basij. This expert witness's report and expected testimony will discuss the various
22 subgroups of the Basij, the reasons why a person might join or have an association with the
23 Basij, and the relevance of past Basij association to a national security determination.

24 10. Expert witness J's field of expertise is immigration law and policy and USCIS
25 policy administration. This expert witness's report and expected testimony will discuss USCIS's
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1 interests in CARRP and policy options for how USCIS could accomplish vetting and
2 adjudication of benefit applicants consistent with its goals and the law.

3 11. Expert witness K's field of expertise is religious demography. This expert
4 witness's report and expected testimony will address the frequency with which CARRP is
5 applied to individuals with characteristics statistically correlated with Muslim populations.
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1 Respectfully submitted,
2 s/ Jennifer Pasquarella
3 s/ Michelle (Minju) Cho
Jennifer Pasquarella (admitted pro hac vice)
Michelle (Minju) Cho (admitted pro hac vice)
4 **ACLU Foundation of Southern California**
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DATED: January 31, 2020

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s/ Nicholas P. Gellert
s/ David A. Perez
s/ Heath Hyatt
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s/ Trina Realmuto
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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that on January 31, 2020, I caused service of the foregoing document via email to all counsel of record herein.

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24 DATED this 31st day of January, 2020, in Seattle, Washington.

25
26 By: s/ Heath Hyatt
Heath Hyatt, WSBA #54141

Exhibit C

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ABDIQAFAR WAGAFE *et al.*, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

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

Defendants.

No. 17-cv-00094 RAJ

PLAINTIFFS' THIRD SUPPLEMENTAL
OBJECTIONS AND RESPONSES TO
DEFENDANTS' FIRST SET OF
INTERROGATORIES TO PLAINTIFFS

Pursuant to Federal Rules of Civil Procedure 26 and 33, Abdiqafar Wagafe, Mehdi Ostadhassan, Hanin Omar Bengenzi, Noah Adam Abraham (f/k/a Mushtaq Abed Jihad), and Sajeel Manzoor, on behalf of themselves and others similarly situated (collectively, "Plaintiffs"), hereby submit the following Second Supplemental Objections and Responses to the First Set of Interrogatories directed to Plaintiffs by Defendants.

GENERAL OBJECTIONS AND RESERVATIONS

Plaintiffs' responses to the Interrogatories are subject to and without waiver of the following objections and reservations:

1. Plaintiffs object to each Interrogatory to the extent that the Interrogatory calls for information protected from discovery or disclosure by any privilege or doctrine, including, without limitation, the attorney-client privilege or work product doctrine and any privilege or

1 doctrine that protects information from discovery or disclosure because it otherwise reflects the
2 impressions, conclusions, opinions, legal research, litigation plans or theories of their attorneys.
3 By providing certain information requested herein, Plaintiffs do not waive any privilege or
4 protection that is or may be applicable to such information.

5 2. Plaintiffs object to each Interrogatory to the extent that the Interrogatory seeks
6 information and/or documents concerning their defenses or positions regarding legal issues in
7 this action and to the extent they constitute premature contention interrogatories.

8 3. Plaintiffs object to Interrogatories requesting “all” or “every” source of
9 information relating to the subject matter of each Interrogatory, as such is overly broad and
10 unduly burdensome. *See United States ex rel. Barko v. Halliburton Co.*, 241 F. Supp. 3d 37, 77
11 (D.D.C.), *aff’d*, 709 F. App’x 23 (D.C. Cir. 2017) (interrogatory asking a party to “identify every
12 person that may possess knowledge or information regarding the factual allegations or legal
13 claims in [the] complaint—which are incredibly numerous, to say the least—and then describe,
14 in detail, the facts about which they have knowledge” as overbroad and unduly burdensome and
15 “improper”); *Grynberg v. Total S.A.*, No. 03-CV-01280-WYD-BNB, 2006 WL 1186836, at *7
16 (D. Colo. May 3, 2006) (interrogatory requiring party “to state all material facts supporting the
17 denial or affirmative defense, identify all witnesses with knowledge of those facts, and identify
18 all material documents supporting the denial or affirmative defense is unduly burdensome as a
19 matter of law and an abuse of the discovery system”); *Hilt v. SFC Inc.*, 170 F.R.D. 182, 187 (D.
20 Kan. 1997) (“If the drafters of the rules had intended to authorize interrogatories with an impact
21 as wide as the entire case, they could more realistically and easily have adopted a simple rule to
22 require every pleading to be accompanied by a statement of all the facts supporting every
23 allegation and the identifications of every knowledgeable person and supporting document. The
24 rules, of course, contain no such requirement. They contemplate instead that discovery in each
25 case be sensibly organized and managed—and often limited—to provide each party with
26 reasonable opportunity to learn information essential to a fair resolution of the case.”). Plaintiffs

1 further object to Interrogatories requesting “all” or “every” source of information relating to the
2 subject matter of each Interrogatory as overly broad because the literal interpretation would
3 require the disclosure of information protected by the privileges and exemptions listed in these
4 General Objections.

5 4. Plaintiffs’ investigation and development of facts relating to this action are
6 ongoing. These responses and objections are made without prejudice to, and are not a waiver of,
7 Plaintiffs’ right to rely on other facts or documents at trial.

8 5. Plaintiffs reserve the right to supplement, clarify, revise, or correct any or all of
9 the responses and objections herein, and to assert additional objections or privileges, in one or
10 more subsequent supplemental response(s).

11 6. The assertion of any general objections does not preclude the assertion of specific
12 objections. Nor does the assertion of additional specific objection waive any applicable general
13 objection.

14
15 **INTERROGATORIES**

16 **INTERROGATORY NO. 1:**

17 Identify all persons with knowledge of the facts in support of your claims asserted in the
18 Second Amended Complaint, the specific facts known to that person, the manner in which the
19 person acquired the knowledge (e.g., by observing, witnessing, hearing, reading), and every
20 source from whom, that person obtained knowledge of the facts.

21 **RESPONSE TO INTERROGATORY NO. 1:**

22 Plaintiffs object to this Interrogatory as premature, because discovery and investigation
23 into this matter are ongoing, and because it is overbroad and unduly burdensome. Defendants
24 have not fully complied with their own discovery obligations and have not produced relevant
25 documents or information in response to Plaintiffs’ discovery requests, and as a result, Plaintiffs
26 cannot fully respond to this Interrogatory at this time. Subject to and without waiving any

1 objections, Plaintiffs refer Defendants to the parties' respective Rule 26 disclosures in which
2 witnesses were identified. In addition, Plaintiffs refer Defendants to the persons identified in
3 documents produced by Defendants as having been participants in the creation or application of
4 CARRP or other similar vetting programs. Plaintiffs also refer Defendants to information
5 produced by Defendants about those persons who have had their applications subjected to
6 CARRP or other similar vetting programs.

7 **FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

8 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
9 Interrogatory No. 1. Without waiving the foregoing objections, persons with knowledge include:
10 Arazo Abdulaziz, Noah Adam Abraham (f/k/a Mushtaq Abed Jihad), Ronald Atkinson, Jaime
11 Benavides, Hanin Omar Bengezi, Officer Daoud, Shanon Doherty, Matthew Emrich, Christopher
12 Heffron, Katie Hess-Yoder, Amy Lang, Sean Lee, Sajeel Manzoor, Brian Murphy, Mehdi
13 Ostadhassan, Daniel Renaud, Lori Scialabba, Officer Vasquez-Cortina, and Abdiqafar Wagafe.
14 Plaintiffs also refer Defendants to Plaintiffs' Rule 26 Initial and Supplemental Disclosures in
15 which individuals likely to have discoverable information that Plaintiffs may use to support their
16 claims or defenses were identified. Plaintiffs also refer Defendants to individuals identified in
17 Defendants' Initial and First and Second Supplemental Initial Disclosures, as well as persons
18 identified in documents produced by Defendants as having been participants in the creation or
19 application of CARRP or other similar vetting programs, such as documents part of Defendants'
20 Certified Administrative Record and documents produced by Defendants in response to
21 Plaintiffs' Requests for Production. Plaintiffs additionally refer Defendants to documents and
22 information produced by Defendants about persons who have had their applications subjected to
23 CARRP or other similar vetting programs.

24 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

25 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
26 Interrogatory No. 1. Without waiving the foregoing objections, persons with knowledge include:

1 Arazo Abdulaziz, Noah Adam Abraham (f/k/a Mushtaq Abed Jihad), Ronald Atkinson,
2 Samantha Balgamwalla, Jaime Benavides, Hanin Omar Bengezi, Bailey Bubach, Don Crocetti,
3 Officer Daoud, Shanon Doherty, Tuyet Duong, Matthew Emrich, Jay Gairson, Christopher
4 Heffron, Katie Hess-Yoder, Amy Lang, Sean Lee, Sajeel Manzoor, Brian Murphy, Donald
5 Neufeld, Mehdi Ostadhassan, Kevin Quinn, Thomas Ragland, Daniel Renaud, Jonathan
6 Scharfen, Margo Schlanger, Lori Scialabba, Patrick Taurel, Officer Vasquez-Cortina, and
7 Abdiqafar Wagafe, class members who have responded to Plaintiffs' Class List posting, class
8 members identified in the Class Lists periodically produced by Defendants, attorneys whose
9 clients have been or are presently subject to CARRP, and other officers whose identities are
10 apparent from the A-Files produced by Defendants. Plaintiffs also refer Defendants to Plaintiffs'
11 Rule 26 Initial Disclosures and First and Second Supplemental Disclosures in which individuals
12 likely to have discoverable information that Plaintiffs may use to support their claims or defenses
13 were identified. Plaintiffs also refer Defendants to individuals identified in Defendants' Initial
14 Disclosures and First, Second, and Third Supplemental Disclosures, as well as persons identified
15 in documents produced by Defendants as having been participants in the creation or application
16 of CARRP or other similar vetting programs, such as documents part of Defendants' Certified
17 Administrative Record and documents produced by Defendants in response to Plaintiffs'
18 Requests for Production. Plaintiffs additionally refer Defendants to documents and information
19 produced by Defendants about persons who have had their applications subjected to CARRP or
20 other similar vetting programs.

21 **THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 1:**

22 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
23 Interrogatory No. 1. Without waiving the foregoing objections, persons with knowledge include:
24 Arazo Abdulaziz, Noah Adam Abraham (f/k/a Mushtaq Abed Jihad), Ronald Atkinson,
25 Samantha Balgamwalla, Jaime Benavides, Hanin Omar Bengezi, Bailey Bubach, Don Crocetti,
26 Officer Daoud, Shanon Doherty, Tuyet Duong, Matthew Emrich, Jay Gairson, Christopher

1 Heffron, Katie Hess-Yoder, Amy Lang, Sean Lee, Sajeel Manzoor, Brian Murphy, Donald
2 Neufeld, Mehdi Ostadhassan, Kevin Quinn, Thomas Ragland, Daniel Renaud, Jonathan
3 Scharfen, Margo Schlanger, Lori Scialabba, Patrick Taurel, Officer Vasquez-Cortina, and
4 Abdiqafar Wagafe, individuals who have responded to Plaintiffs' Class List posting, class
5 members who have responded to Plaintiffs' Class List posting or are the immigration benefits
6 applicants identified in the four (4) random A-files Defendants produced in this litigation, and
7 attorneys whose clients—Named Plaintiffs, individuals identified in the 4 random A-files, and
8 individuals who have responded to Plaintiffs' Class List posting—have been subjected or are
9 presently subject to CARRP, and other USCIS officers whose identities are apparent from the
10 four (4) random A-files Defendants produced in this litigation. Plaintiffs also refer Defendants to
11 Plaintiffs' Rule 26 Initial Disclosures and Supplemental Disclosures in which individuals likely
12 to have discoverable information that Plaintiffs may use to support their claims or defenses were
13 identified. Plaintiffs also refer Defendants to individuals identified in Defendants' Initial
14 Disclosures and Supplemental Disclosures, as well as persons identified in documents produced
15 by Defendants as having been participants in the creation or application of CARRP or other
16 similar vetting programs, such as documents part of Defendants' Certified Administrative
17 Record and documents produced by Defendants in response to Plaintiffs' Requests for
18 Production. Plaintiffs additionally refer Defendants to documents and information produced by
19 Defendants about persons who have had their applications subjected to CARRP or other similar
20 vetting programs.

21
22
23 **INTERROGATORY NO. 2:**

24 Identify all documents that Plaintiffs claim supports their averments in the Second
25 Amended Complaint, including for each document an identification of each paragraph in the
26 Second Amended Complaint that Plaintiffs claim the document supports.

RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs object to this Interrogatory because the information sought is premature, because discovery and investigation into this matter are ongoing, and because it is overbroad and unduly burdensome. Defendants have not fully complied with their own discovery obligations and have not produced relevant documents or information in response to Plaintiffs' discovery requests, and as a result, Plaintiffs cannot fully respond to this Interrogatory at this time. Subject to and without waiving any objections, Plaintiffs refer Defendants to the documents Defendants have produced as well as documents previously produced in *ACLU of SoCal v. USCIS*, CV 13-861 (D.D.C.), and in response to other Freedom of Information Act requests.

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs incorporate the General Objections and objections in Plaintiffs response to Interrogatory No. 2. Without waiving the foregoing objections, documents that support Plaintiffs' claim include: Documents and data produced by Defendants in this litigation responsive to Plaintiffs' Requests for Production; Defendants' responses and documents appended to responses to Plaintiffs' Interrogatories and Requests for Admission; the CARRP Administrative Record produced by Defendants; documents referenced by Defendants in their initial and supplemental disclosures; the Class Lists produced by Defendants; documents regarding named Plaintiffs' immigration benefit applications; documents related to CARRP obtained in response to Freedom of Information Act requests made by the American Civil Liberties Union, available at <https://www.aclusocal.org/en/CARRP>; a report titled "Muslims Need Not Apply: How USCIS Secretly Mandates the Discriminatory Delay and Denial of Citizenship and Immigration Benefits to Aspiring Americans" prepared by the American Civil Liberties Union of Southern California and available at: <https://www.aclusocal.org/en/CARRP>; publicly available documents and statistics accessed on websites for USCIS, Department of Homeland Security, and Department of State; and documents identified by Defendants in their Initial and First and Second Supplemental Initial Disclosures.

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs incorporate the General Objections and objections in Plaintiffs response to Interrogatory No. 2. Without waiving the foregoing objections, documents that support Plaintiffs' claim include: Documents and data produced by Defendants in this litigation responsive to Plaintiffs' Requests for Production; Defendants' responses and documents appended to responses to Plaintiffs' Interrogatories and Requests for Admission; the CARRP Administrative Record produced by Defendants; documents referenced by Defendants in their initial and supplemental disclosures; the Class Lists produced by Defendants; documents regarding named Plaintiffs' immigration benefit applications; documents related to CARRP obtained in response to Freedom of Information Act requests made by the American Civil Liberties Union, available at <https://www.aclusocal.org/en/CARRP>; a report titled "Muslims Need Not Apply: How USCIS Secretly Mandates the Discriminatory Delay and Denial of Citizenship and Immigration Benefits to Aspiring Americans" prepared by the American Civil Liberties Union of Southern California and available at: <https://www.aclusocal.org/en/CARRP>; publicly available documents and statistics accessed on websites for USCIS, Department of Homeland Security, and Department of State; documents filed in other lawsuits challenging Department of Homeland Security and other interagency programs, including but not limited to documents filed in *Elhady, et al. v. Piehota, et al.*, No. 1:16-cv-00375 (E.D. Va.), and *Latif, et al. v. U.S. Dep't of Justice, et al.*, No. 3:10-cv-00750 (D. Or.); and documents identified by Defendants in their Initial Disclosures and First, Second, and Third Supplemental Disclosures.

THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 2:

Plaintiffs incorporate the General Objections and objections in Plaintiffs response to Interrogatory No. 2. Without waiving the foregoing objections, documents that support Plaintiffs' claim include: Documents and data produced by Defendants in this litigation responsive to Plaintiffs' Requests for Production; Defendants' responses and documents appended to responses to Plaintiffs' Interrogatories and Requests for Admission; the CARRP

1 Administrative Record produced by Defendants; documents referenced by Defendants in their
2 initial and supplemental disclosures; the Class Lists periodically produced by Defendants;
3 documents regarding Named Plaintiffs' and class members' immigration benefit applications;
4 documents related to CARRP obtained in response to Freedom of Information Act requests made
5 by the American Civil Liberties Union, available at <https://www.aclusocal.org/en/CARRP>;
6 materials cited by the report titled "Muslims Need Not Apply: How USCIS Secretly Mandates
7 the Discriminatory Delay and Denial of Citizenship and Immigration Benefits to Aspiring
8 Americans" prepared by the American Civil Liberties Union of Southern California and
9 available at: <https://www.aclusocal.org/en/CARRP>; video of Mehdi Ostadhassan and Bailey
10 Bubach, available at: [https://www.cnn.com/2019/10/03/us/muslim-immigrants-carrp-](https://www.cnn.com/2019/10/03/us/muslim-immigrants-carrp-program/index.html)
11 [program/index.html](https://www.cnn.com/2019/10/03/us/muslim-immigrants-carrp-program/index.html).; publicly available documents and statistics accessed on websites for the
12 U.S. Department of Homeland Security, U.S. Department of State, U.S. Department of Justice,
13 U.S. Government Accountability Office, and Congressional Research Service; evaluations of the
14 Accuracy of E-Verify Findings, including the July 2012 Report, available at: [https://www.e-](https://www.e-verify.gov/sites/default/files/everify/data/FindingsEVerifyAccuracyEval2012.pdf)
15 [verify.gov/sites/default/files/everify/data/FindingsEVerifyAccuracyEval2012.pdf](https://www.e-verify.gov/sites/default/files/everify/data/FindingsEVerifyAccuracyEval2012.pdf); audit and
16 inspection reports from the U.S. Department of Homeland Security, Office of the Inspector
17 General, including OIG-17-40: DHS' Pilots for Social Media Screening Need Increased Rigor to
18 Ensure Scalability and Long-term Success and OIG-17-56: DHS Tracking of Visa Overstays is
19 Hindered by Insufficient Technology; audit and inspection reports from the U.S. Department of
20 Justice, Office of the Inspector General, including Audit Report 07-41: Follow-up Audit of the
21 Terrorist Screening Center, Audit Report 08-16: Audit of the U.S. Department of Justice
22 Terrorist Watchlist Nomination Processes, Audit Report 09-25: The Federal Bureau of
23 Investigation's Terrorist Watchlist Nomination Practices, Audit Report 14-16: Audit of the
24 Federal Bureau of Investigation's Management of Terrorist Watchlist Nominations; 2013
25 Watchlisting Guidance, *available at*:
26 https://www.aclu.org/sites/default/files/field_document/March%202013%20Watchlist%20Guida

1 [nce.pdf](#); annual reports from the Office of the Citizenship and Immigration Services
2 Ombudsman, including the 2018 Annual Report; reports from the U.S. Citizenship and
3 Immigration Services, *available at*:
4 <https://assets.documentcloud.org/documents/4341532/COW2017000400-FOIA-Response.pdf>;
5 Privacy Impact Assessments from the U.S. Department of Homeland Security; U.S. Department
6 of Homeland Security's System of Records Notices (SORNs); documents responsive to FOIA
7 requests regarding the 2017 Presidential Transition, *available at*:
8 <https://www.dhs.gov/publication/presidential-transition-records>; reports from Congressional
9 Research Service, including The Terrorist Screening Database and Preventing Terrorist Travel;
10 reports from the U.S. Government Accountability Office; congressional testimony given by
11 representatives of the U.S. Department of Homeland Security, the U.S. Government
12 Accountability Office, and the Federal Bureau of Investigations; documents identified by
13 Defendants in their Initial Disclosures and Supplemental Disclosures; documents filed in other
14 lawsuits challenging Department of Homeland Security and other interagency programs,
15 including the following documents filed in *Elhady, et al. v. Piehota, et al.*, No. 1:16-cv-00375
16 (E.D. Va.), and *Latif, et al. v. U.S. Dep't of Justice, et al.*, No. 3:10-cv-00750 (D. Or.):

- 17 • Deposition of Terrorist Screening Center by its Designated Representative (Timothy
18 Groh), Mar. 1, 2018, *Elhady v. Kable*, No. 1:16-cv-00375 (E.D. Va. Mar. 14, 2018), ECF
19 No. 137-1
- 20 • Excerpts from the Deposition of U.S. Customs & Border Protection by its Designated
21 Representative (Randy Howe), Mar. 22, 2018, *Elhady v. Kable*, No. 1:16-cv-00375 (E.D.
22 Va. Apr. 13, 2018), ECF No. 169-1
- 23 • Excerpts from the Deposition of the Federal Bureau of Investigation by its Designated
24 Representative (Matthew DeSarno), Apr. 9, 2018, *Elhady v. Kable*, No. 1:16-cv-00375
25 (E.D. Va. Apr. 16, 2018), ECF No. 170-2
26

- 1 • Declaration of Timothy P. Groh, *Elhady v. Kable*, No. 1:16-cv-00375 (E.D. Va. Apr. 27,
- 2 2018), ECF No. 196-4
- 3 • Declaration of Timothy P. Groh, *Elhady v. Kable*, No. 1:16-cv-00375 (E.D. Va. Apr. 27,
- 4 2018), ECF No. 196-5
- 5 • Declaration of Randy Howe, *Elhady v. Kable*, No. 1:16-cv-00375 (E.D. Va. Apr. 27,
- 6 2018), ECF No. 196-7
- 7 • Overview of the U.S. Government’s Watchlisting Process and Procedures, *Elhady v.*
- 8 *Kable*, No. 1:16-cv-00375 (E.D. Va. Apr. 27, 2018), ECF No. 196-16
- 9 • Additional Excerpts from the Deposition of the Federal Bureau of Investigation by its
- 10 Designated Representative (Matthew DeSarno), Apr. 9, 2018, *Elhady v. Kable*, No. 1:16-
- 11 cv-00375 (E.D. Va. Apr. 27, 2018), ECF No. 196-19
- 12 • Defendants’ Objections to Plaintiffs’ First Set of Interrogatories to TSC, *Elhady v. Kable*,
- 13 No. 1:16-cv-00375 (E.D. Va. Apr. 27, 2018), ECF No. 196-21
- 14 • Declaration of Timothy P. Groh, dated July 5, 2018, *Elhady v. Kable*, No. 1:16-cv-00375
- 15 (E.D. Va. Sept. 11, 2018), ECF No. 253-2
- 16 • Supplemental Briefing Regarding Redacted Documents, *Elhady v. Kable*, No. 1:16-cv-
- 17 00375 (E.D. Va. Sept. 11, 2018), ECF No. 253-6
- 18 • Declaration of G. Clayton Grigg in Support of Defendants’ Cross-Motion for Summary
- 19 Judgment, *Latif v. Lynch*, No. 3:10-cv-00750-BR (D. Or. May 28, 2015), ECF No. 253
- 20 • Exhibit A, Declaration of G. Clayton Grigg in Support of Defendants’ Cross-Motion for
- 21 Summary Judgment, *Latif v. Lynch*, No. 3:10-cv-00750-BR (D. Or. May 28, 2015), ECF
- 22 No. 253-1
- 23 • Declaration of Michael Steinbach, *Latif v. Lynch*, No. 3:10-cv-00750-BR (D. Or. May 28,
- 24 2015), ECF No. 254
- 25 • Exhibit A in Support of Declaration of Michael Steinbach, *Latif v. Lynch*, No. 3:10-cv-
- 26 00750-BR (D. Or. May 28, 2015), ECF No. 254-1

- 1 • Declaration of Marc Sageman in Opposition to Defendants’ Cross-Motion for Summary
2 Judgment, *Latif v. Lynch*, No. 3:10-cv-00750-BR (D. Or. August 7, 2015), ECF No. 268
- 3 • Declaration of John Giacalone in Support of Defendants’ Reply in Support of Their
4 Cross-Motion For Partial Summary Judgment, *Latif v. Lynch*, No. 3:10-cv-00750-BR (D.
5 Or. Oct. 19, 2015), ECF No. 304-1
- 6 • Declaration of Michael Steinbach in Support of Defendants’ Second Supplemental
7 Memorandum In Support of Their Motion For Summary Judgment, *Latif v. Lynch*, No.
8 3:10-cv-00750-BR (D. Or. May 5, 2016), ECF No. 327.

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11 **INTERROGATORY NO. 3:**

12 Please identify, as required by Fed. R. Civ. P. 26(a)(2), all persons whom Plaintiffs may
13 use at trial to present evidence under Fed. R. Evid. 702, 703 or 705; each person’s field(s) of
14 expertise; the opinions he or she is expected to offer; each fact which said expert relies upon to
15 support the opinions identified above; the title and full citation of any treaties, books, articles,
16 essays, tests, reports, tables, or other writings, published or unpublished, reviewed or consulted
17 in preparing to render each opinion identified; a description of each analysis, report, data, test
18 result, or other document the expert reviewed in preparing to render the opinion to be testified to;
19 an identification and description of any methodology developed or used by the expert in forming
20 each opinion; and designate the methodologies that support each opinion of each such expert.

21 **RESPONSE TO INTERROGATORY NO. 3:**

22 Plaintiffs object to this Interrogatory to the extent it seeks information about expert
23 witnesses earlier than pursuant to the Court’s scheduling order, and because discovery and
24 investigation into this matter are ongoing. Defendants have not fully complied with their own
25 discovery obligations and have not produced relevant documents or information in response to
26 Plaintiffs’ discovery requests, and as a result, Plaintiffs cannot fully respond to this Interrogatory

1 at this time. Additionally, Plaintiffs' ability to identify fact witnesses is hampered by the existing
2 protective order constraining Plaintiffs' use of class member information. This issue remains
3 under discussion by the parties. Plaintiffs also object to this Interrogatory to the extent it seeks
4 information beyond the categories of information required under Fed. R. Civ. P. 26(a)(2) about
5 an expert witness's anticipated testimony.

6 **FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

7 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
8 Interrogatory No. 3. Responding further, Plaintiffs expressly reserve the right to supplement,
9 clarify, revise, or correct their response to this Interrogatory and to assert additional objections or
10 privileges in one or more subsequent supplemental response(s) in accordance with the time
11 period for exchanging expert reports set by the Court.

12 **SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

13 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
14 Interrogatory No. 3. Responding further, Plaintiffs expressly reserve the right to supplement,
15 clarify, revise, or correct their response to this Interrogatory and to assert additional objections or
16 privileges in one or more subsequent supplemental response(s) in accordance with the time
17 period for expert disclosures set by the Court at Dkt. 298.

18 **THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 3:**

19 Plaintiffs incorporate the General Objections and objections in Plaintiffs response to
20 Interrogatory No. 3. Responding further, Plaintiffs expressly reserve the right to supplement,
21 clarify, revise, or correct their response to this Interrogatory and to assert additional objections or
22 privileges in one or more subsequent supplemental response(s) in accordance with the time
23 period for expert disclosures set by the Court at Dkt. 298 and the December 18, 2019 text order.
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25
26

1 DATED: January 9, 2020

2 COUNSEL FOR PLAINTIFFS

3 s/ Jennifer Pasquarella
4 Jennifer Pasquarella (admitted pro hac vice)
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18 s/ Stacy Tolchin
19 Stacy Tolchin (admitted pro hac vice)
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22 Los Angeles, CA 90014
23 Telephone: (213) 622-7450
24 Stacy@tolchinimmigration.com

25 s/ Hugh Handeyside
26 s/ Lee Gelernt
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s/ David A. Perez
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1 **CERTIFICATE OF SERVICE**

2 The undersigned certifies that on January 9, 2020, I caused service of the foregoing
3 document via email to all counsel of record herein.

4 5 6 7	Andrew C. Brinkman U.S. Department of Justice 450 5th Street NW Washington, DC 20530 Phone: (202) 305-7035 andrew.brinkman@usdoj.gov	Via Email
8 9 10	August Flentje U.S. Department of Justice 950 Pennsylvania Ave NW Washington, DC 20530 Phone: (202) 514-3309 august.flentje@usdoj.gov	Via Email
11 12 13	Brendan T. Moore U.S. Department of Justice (Box 878) PO Box 878 Ben Franklin Station Washington, DC 20044 Phone: (202) 598-8173 brendan.t.moore@USDOJ.gov	Via Email
14 15 16	Brian C. Kipnis US Attorney's Office (SEA) 700 Stewart St., Suite 5220 Seattle, WA 98101-1271 Phone: (206) 553-7970 Brian.Kipnis@USDOJ.gov	Via Email
17 18 19	Brigham J. Bowen U.S. Department of Justice Civil Division, Federal Programs Branch 1100 L Street, NW Washington, DC 2005 Phone: (202) 514-6289 (202) 514-6289 Brigham.Bowen@usdoj.gov	Via Email
20 21 22 23	Derek C. Julius U.S. Department of Justice (Box 868) P.O. 878 Benjamin Franklin Station Washington, DC 20044 Phone: (202) 532-4323 derek.julius2@usdoj.gov	Via Email

1 2 3 4	Ethan B. Kanter U.S. Department of Justice Office of Immigration Litigation, Liberty Square Building, 450 5th Street NW Washington, DC 20001 Phone: (202) 616-9123 Ethan.Kanter@usdoj.gov	Via Email
5 6 7 8	Jesse Busen U.S. Department of Justice (Box 878) PO Box 878 Ben Franklin Station Washington, DC 20044 Phone: (202) 598-8173 Jesse.Busen@usdoj.gov	Via Email
9 10 11	Leon B. Taranto U.S. Department of Justice, Civil Division 1331 Pennsylvania Ave NW Room 8018-S Washington, DC 20004 Phone: (202) 616-4231 Leon.B.Taranto@USDOJ.gov	Via Email
12 13 14 15	Lindsay M. Murphy U.S. Department of Justice (Box 878) P.O. Box 878 Ben Franklin Station Washington, D.C. 20044 Phone: (202) 616-4018 Lindsay.M.Murphy@usdoj.gov	Via Email
16 17 18	Michelle R. Slack U.S. Department of Justice, Civil Division Office of Immigration Litigation P.O. Box 878, Ben Franklin Station Washington, D.C. 20044 Phone: (202) 598-8897 Michelle.R.Slack@usjod.gov	Via Email
19 20 21 22	Victoria Braga U.S. Department of Justice (Box 878) P.O. Box 878 Ben Franklin Station Washington, D.C. 20044 Phone: (202) 616-5573 Victoria.M.Braga@usdoj.gov	Via Email

DATED this 9th day of January, 2020, at Seattle, Washington.

By: s/ Cristina Sepe
Cristina Sepe, WSBA #53609

Exhibit D

From: [Kanter, Ethan \(CIV\)](#)
To: ["Gellert, Nicholas \(Perkins Coie\)"; "Hyatt, Heath \(Perkins Coie\)"; "Perez, David A. \(Perkins Coie\)"; "Matt Adams"; Hugh Handeyside Contact; "Whidbee, Paige \(Perkins Coie\)"; Jennie Pasquarella](#)
Cc: [Kipnis, Brian \(USAWAW\); Taranto, Leon B. \(CIV\); Braga, Victoria M. \(CIV\); Brinkman, Andrew \(CIV\); Moore, Brendan T. \(CIV\); Busen, Jesse \(CIV\); Davis, Kathryn C \(CIV\); Murphy, Lindsay M. \(CIV\); Slack, Michelle R \(CIV\); Flentje, August \(CIV\)](#)
Subject: RE: Wagafe Impact of Coronavirus on the Litigation
Date: Friday, March 20, 2020 7:43:43 PM

Jennie:

Over the last 24 hours, we have carefully considered your demand that Defendants commit to an extended responsive expert reporting deadline. We have reached out to the agencies essential to meeting any deadline with the same result. The operations of the agency personnel we rely on (not to mention our own activities) have been greatly disrupted. Each agency official contacted returned us to the same and obvious conclusion that even you shared last Friday: it is neither fair nor reasonable to insist upon compliance with unnecessary and arbitrary deadlines in this crisis. The news all around us is dreadful and uncertain. The nation is pulling together to fight this unprecedented threat, with the Executive Branch directing all federal agencies to prioritize the COVID-19 threat above all non-mission-critical matters. The very agencies that are necessary for formulating and supporting Defendants' responsive expert designations and reports continue to face work disruptions and expect continued disruptions that are difficult to predict in the coming days and weeks.

Thus, we will seek relief from the Court unilaterally if we are at an impasse. We will note that in the absence of anything remotely close to the present crisis, we granted your request to extend the initial expert witness disclosure deadlines by a month, without insisting on an explanation, and even though those adjustments shortened the Defendants' time for turning-around responsive expert disclosures by two weeks. We will outline the burden of assembling a response to Plaintiffs' nine experts and voluminous reporting, an effort we were poised to tackle when the crisis hit. We will also submit supporting materials and exhibits to substantiate the disruption to government personnel and functions necessary to building that case, meeting the responsive expert reporting deadline, as well as setting a new deadline with any certainty, under the present extenuating circumstances. Lastly, we will attest to our willingness to continue the work of the case as best as we can, regularly conferring with Plaintiffs' counsel, and jointly reporting to the Court in an effort to resume normal functions, including depositions, as quickly as possible.

If Plaintiffs' final position is that there must be a deadline for designating responsive experts and producing their reports as part of any agreement to suspend the case schedule, at a minimum, we request that you reply to us by 10 a.m. PST, Monday, March 23, 2020, so that we have sufficient opportunity to prepare the Defendants' motion and exhibits for filing with the Court on or before Thursday, March 26, 2020.

Ethan

Ethan B. Kanter

Chief, National Security Unit

Civil Division, Office of Immigration Litigation-Appellate

United States Department of Justice

Post Office Box 868 | Ben Franklin Station | Washington, D. C. 20044

☎ 202-616-9123 | 📠 202-307-8698 | ✉ ethan.kanter@usdoj.gov

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intended recipients. Unauthorized interception, review, use or disclosure is prohibited. If you believe that you have received this e-mail in error, please notify the sender immediately, and permanently delete the e-mail, any attachments, and all copies from your computer.

From: Jennie Pasquarella <JPasquarella@aclusocal.org>

Sent: Thursday, March 19, 2020 12:42 PM

To: Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; 'Gellert, Nicholas (Perkins Coie)' <NGellert@perkinscoie.com>; 'Hyatt, Heath (Perkins Coie)' <HHyatt@perkinscoie.com>; 'Perez, David A. (Perkins Coie)' <DPerez@perkinscoie.com>; 'Matt Adams' <matt@nwirp.org>; Hugh Handeyside Contact <hhandeyside@aclu.org>; 'Whidbee, Paige (Perkins Coie)' <PWhidbee@perkinscoie.com>

Cc: Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <vbraga@CIV.USDOJ.GOV>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremooore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>; Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Flentje, August (CIV) <AFlentje@CIV.USDOJ.GOV>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

Ethan,

You can call me Jennie.

We are all under enormous stress and adapting to a constantly shifting environment. Our interest is in seeing that this case move forward as expeditiously as possible and that it not be simply suspended and set aside. As we discussed on the call, we think that the work that can happen remotely – like resolving issues surrounding the 30(b)(6) topics and responsive expert reports – should continue to move forward. For that reason, we thought an extension of two weeks on the responsive expert reports was reasonable. If you think you need more time, we invite you to tell us how much time you need. This is not a deadline that should be suspended.

As for the depositions and dispositive motions deadlines, ultimately, the Court will be the best arbiter of what deadline is reasonable and feasible given the Court's own circumstances with the continuation of cases. In reviewing your proposed stipulation, we felt that striking a balance between extending deadlines and suspending others (the trial-related deadlines), would be more palatable to the Court. We are comfortable proposing the suspension of the depositions and dispositive motion deadlines, while updating the Court regularly on efforts to move the litigation forward. If we end up in a protracted situation where safe travel is not possible for many months, we will want to look to alternative methods to conduct the depositions – i.e. via video or phone. Federal courts (like the Ninth Circuit) are now scheduling oral argument by video conferencing. The same may need to happen with the remaining depositions, so that we can move forward.

Finally, with regard to the length of trial, I can offer edits to that section to make clear it is Plaintiffs' position.

Thanks,

Jennie

From: Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>

Sent: Wednesday, March 18, 2020 12:39 PM

To: Jennie Pasquarella <JPasquarella@aclusocal.org>; 'Gellert, Nicholas (Perkins Coie)' <NGellert@perkinscoie.com>; 'Hyatt, Heath (Perkins Coie)' <HHyatt@perkinscoie.com>; 'Perez, David A. (Perkins Coie)' <DPerez@perkinscoie.com>; 'Matt Adams' <matt@nwirp.org>; Hugh

Handeyside Contact <hhandeyside@aclu.org>; 'Whidbee, Paige (Perkins Coie)' <PWhidbee@perkinscoie.com>

Cc: Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>; Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>; Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Flentje, August (CIV) <August.Flentje@usdoj.gov>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

Dear Ms. Pasquarella:

As you recall, on Friday we spoke about how measures mandated by government at all levels in order to contain the spread of Coronavirus infection was negatively impacting the ability of my team to meet its obligations under the existing Wagafe case schedule. I provided concrete examples as to how those efforts, which have only grown more extreme in this rapidly evolving situation, have disrupted our work. (As I recall, at a certain point, you may have stated you did not need further convincing.) Thus, we proposed, and you assented, to the drafting of a stipulation whereby the parties would jointly ask the Court to suspend the present case schedule in recognition of this new reality.

Unless we were grossly misreading your reaction, our proposal seemed sound to you on Friday. And that was before even more stringent measures have been put in place since in communities across the country. Among these have been the widespread closing of schools and colleges, restrictions on group gatherings of any sort and other close-contact activities, and the mandated closing of all manner of business operations. Nevertheless, for reasons that are not clear to us, you seem to have changed your mind.

To the extent your reversal of position reflects a view that our side is seeking to take advantage of this unanticipated situation, for which we bear no responsibility, we take offense. Our defense team cannot travel. Most of our team is working from home utilizing teleworking capabilities that are being sorely tested, and not always passing muster. At the same time, many members of our team are also unexpectedly having to provide child care because of the sudden decision to close schools at all levels.

Obviously, both sides should do whatever can be feasibly done to move the case forward during this time of crisis. We have never suggested otherwise. Everyone on our side appreciates that they still have a job to do, and each of us is fully committed to the effort. But the current case schedule was created under entirely different circumstances and imagined a degree of work efficiency that we cannot possibly achieve under present conditions. We are not close to functioning at full capacity right now or for the foreseeable future. Most of us are working remotely, and we are contending with an unreliable IT network, overburdened conference lines, and, as noted above, caring for our children during working hours. All of this has significantly strained our ability to coordinate productively with one another, not to mention with our client agencies, our experts, and potentially-retained experts.

The notion that we should propose yet another case schedule to the Court with absolutely no assurance that we can possibly meet it seems nonsensical to us. Since the burden of production continues to fall mostly upon us, this seems like a proposal to set us up for failure. The reports being widely circulated about possible scenarios for the continuing spread of the disease, and the measures that may be needed to treat the afflicted, and to prevent further spread, paint an

uncertain future for the next several months, to say the least.

Thus, we continue to believe that a proposal that involves an across-the-board suspension of deadlines is the only reasonable option. Given that circumstances have deteriorated so quickly – and seemingly daily – and show no signs of turning the corner (as the Court’s general order issued yesterday seems to understand), we think it irresponsible to propose a set of new deadlines to the Court. In truth, because criminal cases are largely being postponed in the Western District of Washington, those cases are going to take priority over civil cases on the Court’s calendar for some time. Thus, the likelihood that any deadlines we propose will somehow mesh with the Court’s calendar is far-fetched.

In summary, proposing new deadlines at this point amounts to an exercise in futility. This is inefficient for the parties, and particularly inefficient for the Court, which faces re-scheduling issues in not just this case, but all cases. The only reasonable and responsible way to account for the uncertainty inherent in the situation is to suspend the case schedule until we can confidently determine realistic deadlines. And, while the case schedule is suspended, we are committed to remaining in communication with you and jointly reporting to the Court until it is appropriate to propose new deadlines.

Finally, while you indicated a desire to flag for the Court your belief that a trial might require 15 days, we do not share that view of the case. In any event, your desire to significantly expand the window of time during which this case will occupy Judge Jones’ courtroom only provides further support for our view that an across the board suspension of deadlines is needed.

In sum, we are willing to accept some of the non-substantive edits you made to the stipulated motion, but we maintain our view that all deadlines should be suspended within the structure for conferring and jointly updating the Court as the parties originally discussed. If Plaintiffs are amenable to that, we will re-circulate a revised draft stipulation.

Ethan

Ethan B. Kanter

Chief, National Security Unit

Civil Division, Office of Immigration Litigation-Appellate

United States Department of Justice

Post Office Box 868 | Ben Franklin Station | Washington, D. C. 20044

☎ 202-616-9123 | 📠 202-307-8698 | ✉ ethan.kanter@usdoj.gov

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From: Jennie Pasquarella <JPasquarella@aclusocal.org>

Sent: Tuesday, March 17, 2020 7:31 PM

To: Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; 'Gellert, Nicholas (Perkins Coie)' <NGellert@perkinscoie.com>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; 'Hyatt, Heath (Perkins Coie)' <HHyatt@perkinscoie.com>; 'Perez, David A. (Perkins Coie)' <DPerez@perkinscoie.com>; 'Matt Adams' <matt@nwirp.org>; Hugh Handeyside Contact <hhandeyside@aclu.org>; 'Whidbee, Paige (Perkins Coie)' <PWhidbee@perkinscoie.com>

Cc: Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <vbraga@CIV.USDOJ.GOV>; Brinkman, Andrew

(CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

Hi Lindsay,

Attached are our proposed edits.

In the interest of continuing to move this case forward (and anticipating the concerns of the Court), we propose that rather than suspending all of the dates until further notice, that we structure this a bit differently to account for the work that can move forward under existing conditions and our interest in continuing to move this case forward as expeditiously as possible under the circumstances. To that end, we propose an extension of two weeks on the responsive expert reports (which we believe can be accomplished through remote work and without travel and face-to-face meetings), a three month extension on the deposition cutoffs and the deadline for dispositive motions, and a temporary suspension of the trial-related dates until we have a better understanding of when trial may reasonably be able to take place.

As you indicated and as we discussed on the call, we also feel it is important to notify the court at this stage that this is not a 5 day trial, so we've added language on that.

Finally, we cannot agree to your language around sensitive national security issues in this case and have proposed an alternative to that.

Hope you are all staying healthy and safe.

Best, Jennie

From: Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>

Sent: Tuesday, March 17, 2020 12:11 PM

To: Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>; 'Gellert, Nicholas (Perkins Coie)' <NGellert@perkinscoie.com>; Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; 'Hyatt, Heath (Perkins Coie)' <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; 'Perez, David A. (Perkins Coie)' <DPerez@perkinscoie.com>; 'Matt Adams' <matt@nwirp.org>; Hugh Handeyside Contact <hhandeyside@aclu.org>; 'Whidbee, Paige (Perkins Coie)' <PWhidbee@perkinscoie.com>

Cc: Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>; Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

Counsel,

I wanted to check in on the status of the draft joint stipulation. Can we expect edits/feedback from you today?

Best,

Lindsay

Lindsay M. Murphy

Senior Counsel for National Security

Office of Immigration Litigation

(202) 616-4018

From: Murphy, Lindsay M. (CIV)

Sent: Monday, March 16, 2020 5:51 PM

To: Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Matt Adams <matt@nwirp.org>; Hugh Handeyside <hhandeyside@aclu.org>; Whidbee, Paige (Perkins Coie) <PWhidbee@perkinscoie.com>
Cc: Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <ybraga@CIV.USDOJ.GOV>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremooore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>
Subject: RE: Wagafe Impact of Coronavirus on the Litigation Counsel,

Attached for your review, please find a revised joint stipulation to suspend the case schedule. If it is acceptable to Plaintiffs, I'm happy to go ahead and file. Please also let me know your availability next week for a meet & confer in accordance with the terms of the proposed joint stip.

Best,

Lindsay

Lindsay M. Murphy

Senior Counsel for National Security

Office of Immigration Litigation

(202) 616-4018

From: Murphy, Lindsay M. (CIV)

Sent: Friday, March 13, 2020 6:34 PM

To: Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Matt Adams <matt@nwirp.org>; Hugh Handeyside <hhandeyside@aclu.org>; Whidbee, Paige (Perkins Coie) <PWhidbee@perkinscoie.com>
Cc: Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <ybraga@CIV.USDOJ.GOV>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremooore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>
Subject: RE: Wagafe Impact of Coronavirus on the Litigation Counsel,

Our apologies, but we have just learned that our draft stipulation will require additional levels of departmental review and the proposed text may need to be changed. Thus, we will keep you posted on when we expect to send a new draft, and hope to send that along with our letter concerning the Rule 30(b)(6) notice early next week.

Thank you,

Lindsay

Lindsay M. Murphy

Senior Counsel for National Security

Office of Immigration Litigation

(202) 616-4018

From: Murphy, Lindsay M. (CIV)

Sent: Friday, March 13, 2020 4:33 PM

To: Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Matt Adams <matt@nwirp.org>; Hugh Handeyside <hhandeyside@aclu.org>; Whidbee, Paige (Perkins Coie) <PWhidbee@perkinscoie.com>

Cc: Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <vbraga@CIV.USDOJ.GOV>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremoore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation Counsel,

Attached for your review please find a draft joint stipulation requesting a temporary suspension of the case schedule in light of the Coronavirus pandemic. We included Nick's suggestion regarding availability of the parties if the Judge wants to confer by phone, but did not flag the duration of trial issue, which seems highly dependent on matters not yet decided. Let us know if you wish to add something on that score nonetheless.

Best,

Lindsay

Lindsay M. Murphy

Senior Counsel for National Security

Office of Immigration Litigation

(202) 616-4018

From: Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>

Sent: Thursday, March 12, 2020 9:12 PM

To: Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Matt Adams <matt@nwirp.org>; Hugh Handeyside <hhandeyside@aclu.org>; Whidbee, Paige (Perkins Coie) <PWhidbee@perkinscoie.com>

Cc: Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <vbraga@CIV.USDOJ.GOV>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremoore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

Nick: that time works for us. We will speak with you tomorrow on the line you provided. Ethan

From: Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>

Sent: Thursday, March 12, 2020 8:21 PM

To: Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Hyatt, Heath (Perkins Coie) <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>; Matt Adams <matt@nwirp.org>; Hugh Handeyside <hhandeyside@aclu.org>; Whidbee, Paige (Perkins Coie) <PWhidbee@perkinscoie.com>

Cc: Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Braga, Victoria M. (CIV) <vbraga@CIV.USDOJ.GOV>; Brinkman, Andrew

(CIV) <ABrinkma@civ.usdoj.gov>; Moore, Brendan T. (CIV) <bremore@CIV.USDOJ.GOV>; Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

Importance: High

To be clear, I meant 10:00 Pacific.

From: Gellert, Nicholas (SEA) <NGellert@perkinscoie.com>

Sent: Thursday, March 12, 2020 4:54 PM

To: Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>; Hyatt, Heath (SEA) <HHyatt@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Perez, David A. (SEA) <DPerez@perkinscoie.com>; Matt Adams <matt@nwirp.org>; Hugh Handeyside <hhandeyside@aclu.org>; Whidbee, Paige (SEA) <PWhidbee@perkinscoie.com>

Cc: Murphy, Lindsay M. (CIV) <Lindsay.M.Murphy@usdoj.gov>; Kanter, Ethan (CIV) <Ethan.Kanter@usdoj.gov>; Kipnis, Brian (USAWAW) <Brian.Kipnis@usdoj.gov>; Taranto, Leon B. (CIV) <Leon.B.Taranto@usdoj.gov>; Braga, Victoria M. (CIV) <Victoria.M.Braga@usdoj.gov>; Brinkman, Andrew (CIV) <Andrew.Brinkman@usdoj.gov>; Moore, Brendan T. (CIV) <Brendan.T.Moore@usdoj.gov>; Busen, Jesse (CIV) <Jesse.Busen@usdoj.gov>; Davis, Kathryn C (CIV) <Kathryn.C.Davis@usdoj.gov>

Subject: RE: Wagafe Impact of Coronavirus on the Litigation

We do not disagree with the view and are willing to be flexible around this. We also want to discuss some issues related to trial too. Would a call at 10:00 tomorrow work. If so, we can use my call-in number:

Dial: 1-888-857-7291

Code: 206-359-8680#

Nick

From: Slack, Michelle R (CIV) <Michelle.R.Slack@usdoj.gov>

Sent: Thursday, March 12, 2020 3:34 PM

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Subject: Wagafe Impact of Coronavirus on the Litigation

Counsel,

We would like to address with you how the coronavirus pandemic is and likely will impact this litigation. It has already affected our ability to schedule a deposition of Mr. Ostadhassan, and it is increasingly impacting workplaces and activities across the United States, including the greater Seattle area—with the suspension of significant operations at the U.S. District Court and the closing of the USCIS Seattle/Tacoma Field Office—as well as Washington, D.C., in which our own office is currently responding to a presumptive coronavirus case. Yesterday, personnel, including members of our team, were encouraged to telework while steps are being taken to evaluate the situation, treat

affected areas (including the floors on which the majority of our team work), and plan for longer-term disruptions. Today we have learned that another presumptively-infected employee in our building has taken ill.

Unfortunately, we are at a critical point in the discovery process of this case and already under extreme time-pressures that leave little room for the type of adjustments necessitated by prudent measures that have and will likely continue to be taken to contain the spread of this virus. We are at a stage necessitating substantial travel to multiple locations in the United States, spending long hours in rooms with multiple people (some of whom will be traveling to/from Seattle/D.C. and other parts of the country), meeting with witnesses and handling of documents, and other discouraged, close-contact activities—all of which are activities presenting unreasonable health risks to witnesses and attorneys. Although we continue to work on those matters that involve less close-contact and other discouraged activities, like the 30(b)(6) negotiations and identifying responsive experts, we have postponed activities like scheduling expert witness depositions in light of this pandemic. But, we cannot continue to postpone these activities without addressing the upcoming deadlines for responsive experts (March 28th), for expert depositions (April 6th), and for the filing of dispositive motions (May 11th).

In light of the exigent circumstances, we invite you to join with us in making reasonable plans to suspend activities that pose unnecessary burdens and health risks, while jointly seeking reasonable adjustments to the current schedule until we are able to resume normal, or relatively normal operations. Among the possibilities to consider is agreeing to suspend the case schedule until the situation stabilizes, but also agreeing to outline the types of case-related work that can responsibly continue. For example, we should continue to narrow our dispute over Plaintiffs' planned 30(b)(6) deposition of USCIS, as well as to evaluate the existing expert reports and prepare to depose such experts/identifying responsive experts.

Please let us know your position on this matter and your availability to meet and confer on it.

Sincerely,

Michelle R. Slack

Trial Attorney

United States Department of Justice, Civil Division

Office of Immigration Litigation—Appellate Section

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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Exhibit E

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

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

Defendants.

No. 2:17-cv-00094-RAJ

PLAINTIFFS' FIRST SUPPLEMENTAL
INITIAL DISCLOSURES

Plaintiffs submit the following First Supplemental Initial Disclosures in accord with Federal Rule of Civil Procedure 26(a)(1) and Rule 26(e)(1)(A), based on information and documents presently available to Plaintiffs. Plaintiffs do not represent that they are identifying every document or witness possibly relevant to this action. These disclosures are submitted without benefit of complete discovery. Plaintiffs reserve the right to further supplement and/or amend information contained in these disclosures in accordance with the provisions of Rule 26(e)(1)(A) of the Federal Rules of Civil Procedure, to the extent additional information becomes available.

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1 **A. Individuals likely to have discoverable information that Plaintiffs may use to**
2 **support their claims or defenses.**

3 In addition to persons identified in Plaintiffs' Initial Disclosures, Plaintiffs believe the
4 following individuals are likely to have discoverable information that Plaintiffs may use to
5 support their claims or defenses:

- 6 12. Arazo Abdulaziz
7 Field Operations Directorate
8 U.S. Citizenship and Immigration Services
9 c/o Defendants' counsel of record

10 Ms. Abdulaziz is likely to have discoverable information about the immigration benefit
11 application of named Plaintiff Abdiqafar Wagafe.

- 12 13. Ronald A. Atkinson
13 Office of Legislative and Intergovernmental Affairs. External Affairs Directorate
14 U.S. Citizenship and Immigration Services
15 c/o Defendants' counsel of record

16 Mr. Atkinson is likely to have discoverable information concerning the development,
17 implementation, and use of CARRP and other "extreme vetting" policies.

- 18 14. Jaime L. Benavides
19 Field Operations Directorate
20 U.S. Citizenship and Immigration Services
21 c/o Defendants' counsel of record

22 Mr. Benavides is likely to have discoverable information concerning the development,
23 implementation, and use of CARRP and other "extreme vetting" policies.

- 24 15. Officer Daoud
25 Field Operations Directorate
26 U.S. Citizenship and Immigration Services
c/o Defendants' counsel of record

Officer Daoud is likely to have discoverable information about the immigration benefit
application of named Plaintiff Noah Adam Abraham (f/k/a Mushtaq Abed Jihad).

16. Shanon Doherty
Field Operations Directorate
U.S. Citizenship and Immigration Services
c/o Defendants' counsel of record

1 Ms. Doherty is likely to have discoverable information about the immigration benefit
2 application of named Plaintiff Sajeel Manzoor.

3 17. Christopher Heffron
4 Fraud Detection and National Security Directorate
5 U.S. Citizenship and Immigration Services
6 c/o Defendants' counsel of record

7 Mr. Heffron is likely to have discoverable information concerning the development,
8 implementation, and use of CARRP and other "extreme vetting" policies.

9 18. Katie Hess-Yoder
10 Field Operations Directorate
11 U.S. Citizenship and Immigration Services
12 c/o Defendants' counsel of record

13 Ms. Hess-Yoder is likely to have discoverable information about the immigration benefit
14 application of named Plaintiffs Hanin Omar Bengezi and Noah Adam Abraham (f/k/a Mushtaq
15 Abed Jihad).

16 19. Amy Lang
17 Field Operations Directorate
18 U.S. Citizenship and Immigration Services
19 c/o Defendants' Counsel of Record

20 Ms. Lang may have information about the immigration benefit application of named
21 Plaintiff Mehdi Ostadhassan.

22 20. Sean Lee
23 Field Operations Directorate
24 U.S. Citizenship and Immigration Services
25 c/o Defendants' Counsel of Record

26 Mr. Lee may have information about the immigration benefit application of named
Plaintiff Sajeel Manzoor.

21. Brian Murphy
Field Operations Directorate
U.S. Citizenship and Immigration Services
c/o Defendants' Counsel of Record

Mr. Murphy may have information about the immigration benefit application of named
Plaintiff Hanin Omar Bengezi.

22. Officer Vasquez-Cortina

1 Field Operations Directorate
2 U.S. Citizenship and Immigration Services
3 c/o Defendants' Counsel of Record

4 Vasquez-Cortina may have information about the immigration benefit application of
5 named Plaintiff Noah Adam Abraham (f/k/a Mushtaq Abed Jihad).

6 23. Witnesses identified by Defendants or whose identities are apparent from
7 documents produced by Defendants.

8 **B. Documents in Plaintiffs' possession, custody, or control and may use to support
9 their claims or defenses.**

10 In addition to documents identified in Plaintiffs' Initial Disclosures, Plaintiffs may use
11 the following categories of documents and information in their possession, custody, or control to
12 support their claims or defenses:

- 13 4. Documents and data produced by Defendants in this litigation responsive to
14 Plaintiffs' Requests for Production.
- 15 5. Defendants' responses and documents appended to responses to Plaintiffs'
16 Interrogatories and Requests for Admission.
- 17 6. The CARRP Administrative Record produced by Defendants.
- 18 7. Documents referenced by Defendants in their initial and supplemental disclosures.
- 19 8. The Class Lists produced by Defendants.
- 20 9. Publicly available documents and statistics accessed on websites for USCIS,
21 Department of Homeland Security, and Department of State.
- 22 10. Documents produced by Defendants in this litigation.

23 **C. Computation of each category of damages.**

24 Not applicable.

25 **D. Insurance.**

26 Not applicable.

1 DATED: August 30, 2019

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1 **CERTIFICATE OF SERVICE**

2 The undersigned certifies that on August 30, 2019, I caused service of the foregoing
3 document via email to all counsel of record herein.

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16 DATED this 30th day of August, 2019, at Seattle, Washington.

17
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