

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer Plaintiffs versus United States, US Department of Justice, USPS, USPS OIG, USPS BoG, US CIGIE, Department of State, Department of State OIG, USCIS, DHS OIG, and SSA Defendants	Civil No. 3-23CV2875 - S 2 nd Motion to Amend Complaint Certificate of Conference - OPPOSED
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Table of Contents

Table of Contents.....	1
2nd Motion to Amend Complaint.....	1
Introduction.....	1
Typographical and Clerical Errors.....	2
Supplemental Events and Corrections.....	2
Addition of an additional representative for DoS.....	3
No Need to Deny Pending Motion to Dismiss.....	3
Significant Changes.....	4
Updates to Affirmed Statements.....	4
Updates to Requested Relief.....	5
Summary.....	6
Verification of Motion.....	6
Reference Index Table.....	7
Case Document Time Line.....	8
Certificate of Conference.....	11
CERTIFICATE OF SERVICE.....	11

2nd Motion to Amend Complaint

Introduction

This Motion is submitted in accordance with [FRCP Rule 15\(a\)\(2\)](#) which states:

a party may amend its pleading only with ... the court's leave. The court

should freely give leave when justice so requires.

Along with corrections of typographical and clerical errors there are additions and corrections based on events that happened after the date of the pleading to be supplemented, [FRCP Rule 15](#)(d) and correct a clerical error as to the individual / office to represent Department of State (DoS) under [FRCP Rule 15](#)(c)(1)(C).

Typographical and Clerical Errors

There are corrections of typographical errors such as a correction so that the 9 counts are numbered 1 to 9 rather than having two count 8's and no count 9. No party benefits from retaining these typographical errors. They simply introduce confusion for all parties.

In addition there are additions to reference the ECF documents which have been added to the record which were previously referred to in the original complaint. These references are not really additions to the record in this matter but simply aid all parties in understanding and verifying the different affirmed statements in the Amended Verified Complaint.

There is also the addition of a table of contents, reference table, and time line table, none of which are formal parts of the record but added for the convenience of the court and other parties.

Supplemental Events and Corrections

One of the more pressing reliefs sought in the Complaint was for a 10 year green card for Mrs. Carr but this was provided by USCIS a few months ago in late May 2024. The amended complaint is adjusted to record this event and adjust the relief

in accordance with [FRCP Rule 15\(d\)](#).

Addition of an additional representative for DoS
INA 104 which is [8 USC section 1104](#) states:

(a) Powers and duties

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, **except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas**; (2) the powers, duties, and functions of the Administrator; and (3) the determination of nationality of a person not in the United States.¹

The Plaintiffs were unaware of these unusual restrictions but their numerous prior complaints had often been referred to the Bureau of Consular Affairs (BCA) and so the Assistant Secretary of State for Consular Affairs had been notified on 6 Oct 2023 of the complaints (see ECF 17-3).²

No Need to Deny Pending Motion to Dismiss

The second USATXN Motion to Dismiss (ECF 33, 09 May 2024) is still pending before the court. The court is asked to not deny this second Motion to Dismiss as moot as the changes in this amended complaint do not impact any of the claims in the pending Motion to Dismiss. Instead the court is asked to leave this second Motion to Dismiss as pending and finally rule on the motion based on its merits.

¹ Bold added by Plaintiffs.

² On that date, the Assistant Secretary of State for Consular Affairs was Rena Bitter who was copied on the email.,

Significant Changes

Updates to Affirmed Statements

For the convenience of the court, the significant changes are included as follows:

Changes of significance:

20. The U.S. Department of State (hereafter DoS) is an agency of the United States **and** a Defendant in this matter. **Because of the unusual division of authority and responsibility in DoS, DoS is represented by both the Secretary of State and the Assistant Secretary of State for Consular Affairs in their professional capacities** with contact information:

The Executive Office
Office of the Legal Adviser, Suite 5.600
600 19th Street Ste 5, Suite 5 600, NW
Washington, D.C. 20522

109. Mrs. Von Kramer was also unable to establish a lawful presence in the United States during the years of 2019, 2020, and 2021 according to SSA policies concerning payments to non-citizens residing outside the United States. **An exception is granted to surviving spouses who have established a 'lawful presence' in the United States with five years of legal visits to the United States which demonstrate enduring ties to the United States. The requirements for these lawful presence visits are also complex and ambiguous (to the Plaintiffs) with the unusual requirement that for a visit to count for 'lawful presence' it must be longer than one day and shorter than 30 days (and not a full calendar month). A stay for an entire year also counts. See [SSA POM RS 02610.025 5-Year Residency Requirement for Alien Dependents/Survivors Outside the United States \(U.S.\).](#) 1**

1. In 2023 Mr. Carr expressed an interest in the 'lawful presence' requirements with some SSA employees and after minimally including SSA in this suit, SSA has substantially improved and clarified the governing rules in [SSA POM RS 02610.025](#) with an increased focus on 'sincere effort to establish enduring ties to the U.S..'

166. Mr. and Mrs. Carr would later learn that her I-751 was actually denied. **USCIS would later deny her N-400 in a sham hearing and continue to refuse to provide her with a 10 year green card until after this suit was filed. (no green card would ever be issued on that application based on the statement that Mrs. Carr's N-400 was approved). As more than thirty days have passed since**

this effective denial based on statements which USCIS believed to be false, there were no avenues within USCIS to actually get the permanent green card.

209. It appears that when USCIS attempts to effectively deny an application by claiming approval based on false pretenses, there is no way to appeal or correct the error other than the federal district courts.

In late May 2024, Mrs. Carr received her requested 10 year ‘green card’ (see ECF 49-3) from USCIS without any explanation. This was several months after the denied request of 19 Oct 2023 to USCIS as described above as well as the filing of this suit, the first USATXN Motion to Dismiss (ECF 15, 08 Mar 2024) and the second USATXN Motion to Dismiss (ECF 33, 09 May 2024).

It is possible that USCIS had concluded that some of the relief sought in Plaintiff’s Motion for Partial Summary Judgment (ECF 18, 28 Mar 2024) was well justified and USCIS provided the requested relief rather than waiting for this court to order it.

As Mrs. Carr had her 10 year green card her fears of being deported without cause or notice if she failed her citizenship test (para 149) were reduced and it appeared that further relief was not forthcoming, the Carr’s submitted a new N-400 application on 10 Sep 2024 (receipt is ECF 49-4) with an application fee of \$710 and an estimated first interview date in May of 2025.

251. On 8 Sep 2023 Mr. Carr asked for the assistance of the DoJ with respect to the USCIS and related agencies. The DoJ had previously been copied on the various complaints with the USCIS agencies. On 7 Nov 2023 an expanded notice of intent to contest the unwarranted denial of the N-400 application was sent to DoJ and the USCIS Director which is attached as ECF 30-8. The request for assistance to the USCIS Director could be construed as a 8 USC 1447(a) request for a hearing before an immigration officer due to the exorbitant cost of N-336 applications (para 223-253 and relief 38).

Updates to Requested Relief

Relief:

20. The primary relief sought is for Mrs. Carr to receive her Certificate of Naturalization as soon as possible. However, specific relief sought include orders directing:

A. Mrs Carr should receive her 48 month extension letter or a 1 year extension letter as soon as possible, specifically within one week of the date of issuance of the court’s order.

B. Mrs Carr should receive her 10-year Permanent Resident Card as soon as possible.

Specifically within one month of the court’s order. *This relief and the 48 month extension letter above are no longer required as Mrs. Carr was unexpectedly provided with her 10 year Permanent Resident Card by USCIS in late May 2024 after this suit was filed as described in*

para 209 negating the need for the court to order this relief or the relief in A.

C. Mrs. Carr should have her Oath of Allegiance ceremony scheduled and completed within 1 month and her Certificate of Naturalization issued within 2 months of the court's order.

22. Directing that Mrs. Carr be given a credit for future services with USCIS for the extraneous I-751 application fees of \$680 which were duplicated with N-400 services (interview and biometrics). Mrs. Carr never received any I-751 specific services and should not have been charged for the services. *In addition, Mrs. Carr should be given an additional credit for \$710 for the additional N-400 application (ECF 49-4) as described in para 209. These* credits can be used for future services with USCIS for herself, her family, Mr. Carr's family, or Mr. or Mrs. Carr's friends.

Summary

Attached as Exhibit 1 (ECF 49-1) is the resulting Complaint to be used in the event the Second Motion to Amend is granted. Attached as Exhibit 2 (ECF 49-2) is a modified Complaint which shows the original complaint along with changes in purple showing the old text (struck out) and new text.

The Plaintiffs ask that the court grant this Second Motion to Amend the Complaint and direct the clerk to issue a new Summons for the Department of State via the Assistant Secretary of State for Consular Affairs.

Respectfully submitted,

Verification of Motion

The Plaintiff hereby affirms under penalty of perjury in both the United States and Thailand that as an individual:

1. I have reviewed the above motion and believe all of the statements to be true to the best of my knowledge.
2. I have reviewed the associated documents and exhibits and believe them to be true and accurate copies with the exception of the documents identified as being redacted. The redacted documents have only been altered to remove sensitive personal information or other redactable information (as cited in the redaction) according to normal redaction procedures.

I hereby reaffirm that the above is true to the best of my knowledge under penalty of perjury in both the United States and Thailand.

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 19. Nov. 2024

Location: Irving, Texas

Reference Index Table

8 USC section 1104.....	3
ECF 15.....	5
ECF 17-3.....	3
ECF 30-8.....	5
ECF 33.....	3, 5
ECF 49-1.....	6
ECF 49-2.....	6
ECF 49-3.....	5
ECF 49-4.....	5 f.
FRCP Rule 15.....	1 f.
INA 104.....	3
SSA POM RS 02610.025.....	4
(ECF 18.....	5

Case Document Time Line

Date	ECF	Contents
29 Dec 23	3	Complaint
29 Dec 23	5	Summons
03 Jan 24	7	Plaintiffs Motion to Correct Summons
04 Jan 24	8	Order, Docket text Clerk Update Summons, Caption
04 Jan 24	9	Corrected Summons
11 Jan 24	10	Proof of Service on 9 Jan 24
03 Feb 24	11	Date of Notice, USPS, USPS OIG, USPS BoG
03 Feb 24	11-1	Machine Readable copy of ECF3 Complaint 29 Dec 23
07 Feb 24	12	DoS picked up Complaint on 17 Jan 24
07 Feb 24	12-1	DoS returned Complaint, sent 26 Jan 24, rcvd 31 Jan 24
07 Feb 24	12-2	DoS resent Complaint rcvd 5 Feb 24
27 Feb 24	13	DoS OIG, copy of ECF 3 Complaint received on 11 Jan 24
05 Mar 24	14	USCIGIE received Complaint at new address 31 Jan 2024
05 Mar 24	14-1	USCIGIE at old address 11 Jan 2024, returned to sender
08 Mar 24	15	Defendants' Motion to Dismiss
09 Mar 24	16	Date of Notice, USCIS, DHS OIG, SSA
10 Mar 24	17	Date of Notice, DOJ USATXN 12 Jan 23
28 Mar 24	18	Plaintiffs Response, Mtn For Prtl Summary Jdgmnt, Mtn Amend
28 Mar 24	18-1	Amended Complaint
28 Mar 24	18-2	Changes included in Amended Complaint
29 Mar 24	19	Plaintiffs' Response contained in ECF 18 (cfk)
05 Apr 24	20	Plaintiffs' Crtfct of Conference, Motion to Amend UNOPPOSED
08 Apr 24	21	Defendants' Crtfct of Conference, Motion to Amend UNOPPOSED
17 Apr 24	22	Dfndts Rspns to Pltfs Mtn for Prtl Smmry Jdmnt, 56(d) Mtn
17 Apr 24	23	Dfndts Affdvt Opposing Mtn for Plntfs Prtl Smmry Jdmnt Mtn
19 Apr 24	24	Plaintiffs' Motion to Seal ECF 20-1, improperly redacted
22 Apr 24	25	Plaintiffs' Crtfct of Conference for ECF 24,
22 Apr 24	26	Magistrate RR Order Resolving Pending Motions
22 Apr 24	27	Defendants Substitution of Counsel, Owen for Padis
23 Apr 24	28	Plntff Reply to MfPSJ and Response to Defective 56(d) Mtn
23 Apr 24	29	Plaintiff First Amended Complaint
09 May 24	30	1st Motion for Sanctions for Defendants' Motion to Dismiss
09 May 24	30-3	Affirmation of Mr. Carr requesting creative sanctions
09 May 24	30-4	Affirmation about Mr. Padis' attempt to trick Plaintiffs
09 May 24	30-6	Affirmation sanctions for 'not precedent' cases citations
14 May 24	31	Defendants' Motion to Dismiss
14 May 24	31w	Proposed Order Granting Dfndnts' Mtn to Dismiss, word doc
14 May 24	32	Plaintiffs' Motion to Reconsider
14 May 24	32w	Proposed Order Granting Plntffs' Motion to Reconsider, docx
15 May 24	33	Plaintiffs' Motion for Partial Summary Judgment
15 May 24	33w	Proposed Order, Pltf Motion for Partial Summary Judgment
28 May 24	34	Plntff Rspns Opposing Dfndnts' 2nd Motion to Dismiss (31)
28 May 24	34-1	Affirmation of Mr. Carr requesting creative sanctions
28 May 24	34-2	Affirmation of Mr. Carr supporting Count 3, 4 and Count 5
28 May 24	34-3	Affirmation of Mr. Carr supporting Count 7 and Count 8
28 May 24	34-4	Affirmation of Mr. Carr supporting Count 6 and Count 9
28 May 24	34-5	Affirmation comparing Defendants Summary to Actual Summary
29 May 24	35	Defendants' Response Opposing Motion for Sanctions (ECF 30)
29 May 24	35w	Proposed Order, Pltf Motion for Partial Summary Judgment

Date	ECF	Contents
04 Jun 24	36	Defendants' Response Opposing Motion To Reconsider (ECF 32)
05 Jun 24	37	Defendants' Motion to Strike, Response MfPSV(33)
05 Jun 24	38	Defendants' Affidavit Supporting Motion to Strike
07 Jun 24	39	Plaintiffs' Reply Supporting Motion for Sanctions (ECF 30)
07 Jun 24	39-2	Affirmation comparing Padis' Summary to Actual Summary
09 Jun 24	40	Plaintiffs' Response Opposing Motion to Strike (ECF 37)
		Plaintiffs' Reply MfPSJ (ECF 33)
11 Jun 24	41	Defendants' Reply Supporting Motion to Dismiss (ECF 31)
13 Jun 24	42	Plaintiffs' Reply Supporting Motion to Reconsider(ECF 32)
17 Jun 24	43	Order Mtn under Rule 56(d) (ECF 37) Denying MfPSJ (ECF 32)
01 Jul 24	44	Defendants' Mtn to Submit Supplemental Materials (ECF 34)
01 Jul 24	44w	Proposed Order Dfnd Mtn to Submit Supplemental Materials
01 Jul 24	44-1	Dfndnts' Spplmntal Materials, Department of State v. Munoz
01 Jul 24	44-2	Decision Department of State v. Munoz (S. Ct. 2024)
07 Jul 24	45	Pltnfs Rspns Oppsng Mtn to Sbmt Spplmntl Materials (ECF 44)
07 Jul 24	46	Dfndnts' Reply Supporting Supplemental Materials (ECF 44)
07 Aug 24	47	Order (RR) delaying decision on MTD (ECF 31)
09 Sep 24	48	Plntffs' Notice of Supplemental Authority
xx Nov 24	49	Plaintiffs' 2nd Motion to Amend Complaint
xx Nov 24	49-1	Plaintiffs' Proposed 2nd Amended Complaint
xx Nov 24	49-2	Plaintiffs' Proposed Changes for 2nd Amended Complaint

Other Documents

Date	ECF	Contents
Date	Doc	Contents
1855	45-3	CA "Greaser Act", vagrancy act which targets Greasers.
01 Dec 06	39-1	5th Circuit Court Removes Persuasive exception to LR 47.5.4
27 Oct 17	18-7	USPS OIG Audit, 1.9 million falsified times, DR-AR-18-001
29 Aug 18	12-3	Mr. Carr's I-29F affirmation available to DoS on 29 Aug 18
09 Oct 18	34-6	DoS OIG response to 20190052 referred to in ECF 29 para 128
10 Oct 18	10-4	DoS Heinbeck, verbal visa denial was not based on law
13 Nov 18	20-1	Improperly Redacted, Sealed, Permanent Resident Card
13 Nov 18	24-1	Mrs. Carr Permanent Resident Card redacted, exprd 13 Nov 20
12 Aug 19	16-7	Flight tckts 13 Oct to 26 Oct, available to DoS on 9 Sep 19
28 Aug 19	13-1	Pltf's email invitation available to DoS on 9 Sep 19
29 Aug 19	12-4	Pltf's affirmations available to DoS on 9 Sep 19
25 Sep 19	17-5	Pltf's accomodations 14 Oct 19 to 19 Oct 19
27 Mar 21	18-5	USPS Priority Mail delivery, 11 day delay, no refund
09 Apr 21	18-3	USPS Rcpt, \$26.35, Overnight Express, Guaranteed Delivery
15 Apr 21	18-4	USPS Tracking, falsified delivery, still at Post Office
05 May 21	18-8	USPS refund request status, 6006595, Dispute Paid
09 Jun 21	11-2	USPS Hooper, scan on 15 Apr 21 false, early, no refund
01 Aug 21	11-3	to USPS IG, requests crimes reported to DoJ
16 Sep 21	18-9	to USPS, USPS Scarpelli \$26.35 refunded, no transaction ID
19 Oct 21	11-4	USPS FOI Hefley, OIG workers decide on case by case basis
17 Nov 21	11-5	to USPS IG, report malfeasance in USPS OIG, not report
12 Dec 21	18-6	USCIS 24 month extension letter, expired 13 Nov 2022
31 Jan 22	30-2	Texas Disciplinary Rules of Professional Conduct
07 Jun 22	10-1	USPS Delaney, OIG decides prosecution, no report to DoJ
03 Aug 22	10-2	Mr. Carr, notice to USPS BoG of USPS OIG Malfeasance
12 Dec 22	10-3	USPS BoG response, referred USPS OIG complaint to USCIGIE
13 Dec 22	45-1	Mrs. Carr non immigrant visa which expires 08Dec2032
13 Dec 22	45-2	Mrs. Von Kramer non immigrant visa which expires 08Dec2032

Date	ECF	Contents
03 Jan 23	20-2	USCIS A-551, expired 2 Jan 24
23 Jan 23	48-2	USCIS announces new 48 month extension for I-751 applctns
30 Jan 23	16-4	USCIS FOIA NRC2023277190, unsigned interview results
31 Jan 23	10-5	USCIS, I-751 and N-400 approved, no green card provided
26 Feb 23	16-2	to USCIS FOIA, request for entire record including video
03 Mar 23	14-4	to DoJ: Notice / Request, cc: USPS, USPS BoG, USPS OIG
19 Apr 23	39-3	DoS OIG response to H20231749 2023, Complaint para 128
24 Apr 23	34-7	Complaint submitted online to DoS OIG
05 Jun 23	17-1	DoJ Request forwarded to USPIS, NRC2023277190
20 Jun 23	14-2	to DoS, DOS OIG, USCIGIE, DoJ: Notice / Request
24 Jul 23	12-5	DoS Stein FOIA response, no documents returned, INA 222(f)
09 Aug 23	14-3	USCIGIE close Case 23-083, no action taken
25 Aug 23	32-1	Status of Mrs. Carr I-751 and N-400 applications
25 Aug 23	32-2	Request to DHS OIG, USCIS Director, etc
01 Sep 23	10-6	USCIS, 30 Jan 23 interview did not occur
06 Sep 23	10-7	USCIS, interview scheduled for 10 Oct 23, no purpose stated
10 Sep 23	49-5	DHS OIG, USCIS, DoJ notice of falsified cancellation
15 Sep 23	16-1	USPS mail, ECF 10-7 mailed 12 Sep 23, arrived 15 Sep 23
19 Sep 23	10-8	USCIS, rqst to reschedule denied, entire record considered
24 Sep 23	30-5	USCIS G-28 request Mr. Carr as Mrs. Carr's representative
26 Sep 23	30-7	Justification for delaying interview of 10 Oct 2023
05 Oct 23	16-3	USCIS FOIA Panter response NRC2023277190
06 Oct 23	17-3	DoJ, DoS request, cc: DoS IG, USCIGIE, DoS BCA
06 Oct 23	17-4	DoJ, USCIS request, cc: DHS IG, USCIGIE
09 Oct 23	14-5	to DoJ, clarify USPS request, re: NM301959635
09 Oct 23	17-2	(duplicate) to DoJ, clarify USPS request, re: NM301959635
13 Oct 23	10-10	USCIS, N-400 denied, unexplained contradicts prior records
24 Oct 23	49-6	CIGIE, DOJ and USPS request for assistance
27 Oct 23	10-11	USCIS, green card denied, too late to appeal 31Jan23
31 Oct 23	10-9	to USCIS FOIA, request for entire record including video
1 Nov 23	14-6	USCIGIE close Case 24-010, no action taken
7 Nov 23	30-8	Notice of Intent to Contest Denial of N-400 sent to DoJ
13 Nov 23	34-6	Response letter from DoS OIG FOIA to 2023-P-022
13 Nov 23	34-8	Response documents from DoS OIG FOIA to 2023-P-022
12 Dec 23	16-6	to USCIS FOIA request, cumulative N-400 data
12 Dec 23	16-7	to USCIS FOIA request, cumulative I-751 data
20 Dec 23	13-2	to DoS FOIA request, cumulative visa data
21 Dec 23	13-3	DoS FOIA acknowledgment F-2023-13477 for 20 Dec 23
10 Feb 24	13-4	DoS FOIA request statuses 10 Feb 24
01 Mar 24	28-1	Redacted Email Thread 1 Mar 24 to 18 Apr 24
17 Apr 24	30-1	email thread from 17 Apr 2024 to 26 Apr 2024.
28 May 24	49-3	10 year Green Carr for Mrs. Carr, complaint3 para 209
10 Sep 24	49-4	Receipt for new N-400 application, complaint3 para 209

Certificate of Conference

The foregoing Motion is OPPOSED

In accordance with [Local Civil Rule LR 7.1](#) on 11 Nov 2024 I sent an email to opposing counsel concerning this motion but have not received any response. No conference was held and [LR 7.1](#) directs that all motions which do not have a conference should be considered OPPOSED.

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

CERTIFICATE OF SERVICE

On the recorded date of submission, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I also hereby certify that on this same date no copies were served via U.S. mail as all parties in this matter were enrolled in the court's electronic case filing (and service) system.

/s Brian P. Carr

Brian P. Carr
1201 Brady Dr
Irving, TX 75061