USPS Tracking®

FAQs >

Track Another Package +

Remove ×

Tracking Number: 9470103699300057573507

Scheduled Delivery by

FRIDAY

16 APRIL 2021 ⓘ

by **6:00pm** ⓘ

USPS Tracking Plus™ Available ⌄

Delivered, In/At Mailbox

April 15, 2021 at 11:35 am
IRVING, TX 75061

Get Updates ⌄

Text & Email Updates ⌄

Proof of Delivery ⌄

Tracking History ⌃

April 15, 2021, 11:35 am
Delivered, In/At Mailbox
IRVING, TX 75061
Your item was delivered in or at the mailbox at 11:35 am on April 15, 2021 in IRVING, TX 75061.

April 15, 2021, 11:29 am
Out for Delivery
IRVING, TX 75061

April 15, 2021, 11:18 am
Arrived at Post Office
IRVING, TX 75061

April 15, 2021, 6:52 am
Arrived at USPS Regional Destination Facility
COPPELL TX DISTRIBUTION CENTER

April 13, 2021, 11:18 pm
Departed USPS Regional Facility
LINTHICUM HEIGHTS MD DISTRIBUTION CENTER

April 13, 2021, 10:01 pm
Arrived at USPS Regional Origin Facility
LINTHICUM HEIGHTS MD DISTRIBUTION CENTER

April 13, 2021, 8:46 pm
Accepted at USPS Origin Facility
WASHINGTON, DC 20008

April 13, 2021, 7:52 pm

Arrived at USPS Regional Origin Facility
GAITHERSBURG MD DISTRIBUTION CENTER

April 10, 2021
Pre-Shipment Info Sent to USPS, USPS Awaiting Item

USPS Tracking Plus™

Product Information

See Less

Feedback

Can’t find what you’re looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs

USPS Tracking®

FAQs >

Track Another Package +

Tracking Number: 9505511456021075632612

Remove ×

We attempted to deliver your package at 10:44 am on March 27, 2021 in WASHINGTON, DC 20008 but could not access the delivery location. We will redeliver on the next business day.

USPS Tracking Plus™ Available

Alert

March 27, 2021 at 10:44 am
Delivery Attempted - No Access to Delivery Location
WASHINGTON, DC 20008

Get Updates

Feedback

Text & Email Updates

Tracking History

March 27, 2021, 10:44 am
Delivery Attempted - No Access to Delivery Location
WASHINGTON, DC 20008
We attempted to deliver your package at 10:44 am on March 27, 2021 in WASHINGTON, DC 20008 but could not access the delivery location. We will redeliver on the next business day.

March 27, 2021, 6:48 am
Out for Delivery
WASHINGTON, DC 20008

March 27, 2021, 6:37 am

Arrived at Post Office
WASHINGTON, DC 20016

March 24, 2021
In Transit to Next Facility

March 20, 2021, 7:32 pm
Arrived at USPS Regional Facility
MEMPHIS TN DISTRIBUTION CENTER ANNEX

March 16, 2021, 10:02 pm
Departed USPS Regional Origin Facility
COPPELL TX DISTRIBUTION CENTER

March 16, 2021, 10:00 pm
Arrived at USPS Regional Origin Facility
COPPELL TX DISTRIBUTION CENTER

March 16, 2021, 2:01 pm
USPS in possession of item
IRVING, TX 75061

Feedback

USPS Tracking Plus™

Product Information

See Less

Can’t find what you’re looking for?

Go to our FAQs section to find answers to your tracking questions.

26-10025.539

FAQs

Feedback

I-797 | NOTICE OF ACTION

DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Receipt Number		Case Type
MSC2091582908		I751 PETITION TO REMOVE CONDITIONS ON RESIDENCE
Received Date	**Priority Date**	**Petitioner** A056 119 878
08/24/2020		CARR, RUEANGRONG
Notice Date	**Page**	**Beneficiary** A056 119 878
12/14/2021	1 of 2	CARR, RUEANGRONG

RUEANGRONG CARR
1201 BRADY DR
IRVING TX 75061

Notice Type: Receipt Notice
Amount received: $680.00 U.S.

Your conditional permanent resident status is extended for 24 months from the expiration date on your Form I-551, Permanent Resident Card (also known as a Green Card). During this extension, you are authorized to work and travel. This notice, presented with your expired Permanent Resident Card, is evidence of your status and work authorization. (This extension and authorization for employment and travel does not apply to you if your conditional permanent resident status has been terminated.)

If you think you will be outside of the United States for a year or more, you should apply for a Re-entry Permit before leaving the United States by filing Form I-131, Application for a Travel Document. As long as the Re-entry Permit is valid, it allows you to board a vessel or aircraft destined for the United States and/or apply for admission at a U.S. port of entry without the need to obtain a returning resident visa from a U.S. Embassy or U.S. Consulate. Although you generally will not be deemed to have abandoned your status as a conditional permanent resident based solely on the duration of your absences from the United States while the Re-entry Permit is valid, you are not exempt from compliance with any of the requirements of U.S. immigration laws. If USCIS is still adjudicating your Form I-751, then you may miss important USCIS notices, such as Requests for Evidence, or appointment notices for biometrics services or interviews, while you are outside of the United States. Failure to respond to these requests may result in denial of your Form I-751.

If you have not already done so, provide supporting documents to help USCIS process your petition and establish your eligibility to remove the conditions on your permanent residence. Please include a copy of this receipt notice with any supporting documentation you submit.

Please save this and any other notices about your case for your records. You should also keep copies of anything you send us, as well as proof of delivery. Have these records available when you contact us about your case.

If any of the above information is incorrect or you have any questions about the status of your case, please call the USCIS Contact Center (UCC) at 1-800-375-5283 (TDD number is 1-800-767-1833) or visit the USCIS website at www.uscis.gov. If you call us, please have your Alien Registration Number (A-Number) and/or the receipt number shown above. The receipt number is a tracking number for your case and will help with inquiries. Please note, you must submit any changes or corrections in writing to the mailing address at the bottom of this notice if you checked Item 1.e or 1.f under "Basis for Petition" on your Form I-751. You must include your A-number and receipt number in your signed request.

Processing time - Processing times vary by case type. Go to www.uscis.gov to see the current processing times listed by case type and office.

- View your case status on our website's Case Status Online page.
- You can also sign up to receive free email updates as we process your case.
- Most of the time your case is pending, the process status will not change. This is because we are working on cases that were filed before your case.
- When we make a decision on your case or if we need something from you, we will notify you by mail and update our systems.
- If you do not receive an initial decision or update from us within our current processing time, contact the UCC at 1-800-375-5283 or visit our website at www.uscis.gov.

Biometrics - We require collection of biometrics (fingerprints, a photo, and a signature) for some types of cases. If we need to collect biometrics from you, we will send you a SEPARATE appointment notice with a specific date, time and place for you to go to a USCIS Application Support Center (ASC) for your biometrics services appointment. You must wait for that separate appointment notice and take it (NOT this receipt notice) to your ASC appointment along with your photo identification. Acceptable kinds of photo identification are:

- A passport or national photo ID issued by your country,
- A driver's license,
- A military photo ID, or
- A state-issued photo ID card.

If you receive more than one ASC appointment notice (even for different cases), take them both to the first appointment date.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

USCIS encourages you to sign up for a USCIS online account. To learn more about creating an account and the benefits, go to https://www.uscis.gov/file-online.

National Benefits Center
U.S. CITIZENSHIP & IMMIGRATION SVC
P.O. Box 648003
Lee's Summit MO 64002

USCIS Contact Center: www.uscis.gov/contactcenter

Office of Inspector General
UNITED STATES POSTAL SERVICE

Audit Reports

Oct 27 2017

Report Number: DR-AR-18-001
Report Type: Audit Reports
Category: Service Performance, Delivery / Mail Processing

Package Delivery Scanning — Nationwide

View PDF (/sites/default/files/reports/2023-01/DR-AR-18-001.pdf)

Background

The U.S. Postal Service is committed to providing customers with real-time visibility and control of their mail and package delivery services. The Postal Service's goal is to scan all barcoded mailpieces (flats, letters, and packages) that enter the mailstream and track those items with additional scans up to the point of delivery. Scanning accuracy is critically important to the success of real-time visibility.

The Postal Service's scanned package volume increased from 3.5 billion in fiscal year (FY) 2015 to 4.3 billion in FY 2016 – an increase of 22 percent. From July 1 through December 31, 2016, the Postal Service scanned over 2 billion packages sent to over 136 million delivery locations on over 227,092 routes throughout the country.

The Postal Service measures package delivery service performance from the point of acceptance through first delivery attempt. When a carrier attempts to deliver a package at the delivery location, it gets a stop-the-clock scan, indicating the Postal Service has completed its commitment to deliver or attempt to deliver the package.

Carriers use a handheld Mobile Delivery Device (MDD) to scan and transmit package tracking data. MDDs use a cellular network and Global Positioning System (GPS) technology to obtain real-time delivery tracking and location information. If an MDD is not available, carriers can use the predecessor,

Intelligent Mail® Device (IMD). However, the IMD does not provide GPS data or real-time delivery tracking information.

Carriers use an MDD to perform stop-the-clock scans for packages at the actual delivery location in order for customers to receive accurate package tracking notifications in real-time. These stop-the-clock scans performed at any location other than the designated delivery location (excluding caller service, vacation holds, post office box deliveries, undeliverable as addressed, and business closed) are considered improper. Delivery unit management use several Product Tracking and Reporting System daily reports for managing scanning status and performance for their unit, including the Start-of-Day, End-of-Day, and Scan Data Integrity reports.

This audit was self-initiated based on our data analytics indicating an increasing number of questionable or improper delivery scans occurring at delivery units and about 1.4 million customer complaints in FY 2017 related to delivery.

Our objective was to assess the package delivery scanning process in city delivery operations.

What the OIG Found

Opportunities exist to improve the Postal Service's package scanning processes in delivery operations to minimize improper delivery scans. Of the 2 billion scans for the period July 1 through December 31, 2016, we identified 25.5 million scans that occurred between 7 p.m. and when the carrier clocked out for delivery the following morning. We used GPS location data to further analyze these 25.5 million scans and found that, of these, 15.3 million (60 percent) were performed at a location outside of the delivery unit, therefore we did not identify them as improper. However, about 1.9 million scans (7 percent) were improper stop-the-clock scans that occurred at delivery units instead of at the delivery location.

An additional 8.3 million of the 25.5 million delivery scans (33 percent) had no corresponding location data. For these 8.3 million scans, carriers used MDDs for 2.3 million of the scans and IMDs for 6 million of the scans. While the IMDs do not provide GPS data, we estimate the lack of location data for a majority of the 2.3 million MDD scans was due to GPS signal obstruction. Therefore, it was not possible to determine if the 8.3 million scans were proper or improper.

These scans occurred because:

- Delivery unit personnel did not always follow proper scanning procedures.
- Employees sometimes experienced technical limitations with the MDDs,

including delayed transmissions and signal obstruction.

- Management's oversight tool, the Scan Data Integrity report, does not identify all improper scan events such as those that can occur at the delivery unit.

Lastly, we identified 105 million scans (5 percent of the total number of scans in the period reviewed) performed using [redacted].

This occurred because the scanners [redacted]. Management has taken or initiated corrective actions to address these issues; therefore, we will not make recommendations in these areas.

Customers rely on accurate data to track their packages in real-time and receive notification of an expected delivery window. By improving scanning operations, the Postal Service can improve delivery performance and reduce customer delivery complaints, while meeting the goal of providing customers with real-time visibility over their mail.

What the OIG Recommended

We recommended management:

- Continue to reinforce the importance of adhering to package scanning guidelines and policies.
- Develop a process that will allow carriers to scan multiple packages to a single delivery address to provide accurate delivery information to customers.
- Review results of the Delivery Partners Program for colleges and universities and the USPS Partner Mobile Application Pilot and consider implementing any best practices for drop houses.
- Develop an MDD warning message/alert to deter scans at delivery units.
- Create a reason code for manual entry of stop-the-clock scans; and
- Update the Scan Data Integrity report to track improper scans performed at delivery units.

Report Recommendations

#	Recommendation	Status	Value	Initial Management Response	USPS Proposed Resolution
1	Reinforce to delivery unit personnel the importance of adhering to package scanning guidelines.	Closed	$0	Agree	
2	Develop a process that will allow carriers to scan multiple packages to a single delivery address to provide accurate delivery information to customers.	Closed	$0	Disagree	
3	Review the results of the Delivery Partners Program for Colleges and Universities and the USPS Partner Mobile Application Pilot and consider implementing any best	Closed	$0	Agree	

#	Recommendation	Status	Value	Initial Management Response	USPS Proposed Resolution
	practices for drop houses				
4	Develop a Mobile Delivery Device warning message/alert to deter carriers from applying street delivery scan events at delivery units.	Closed	$0	Agree	
5	Create a reason code for stop-the-clock scans entered using the manual input mode for the Mobile Delivery Device (MDD) and include this data on the Manual Entries report to track MDD malfunctions by reason codes.	Closed	$0	Disagree	
6	Update the Scan Data Integrity report to identify improper scans performed at	Closed	$0	Agree	

#	Recommendation	Status	Value	Initial Management Response	USPS Proposed Resolution
	delivery units.				

Service Refunds

FAQs

Refund Request History

Search by USPS Tracking®, or Request ID

6006595

Status

All Statuses

Search

Feedback

REQUEST ID NUMBER
6006595

REFUND STATUS
Dispute Paid

USPS TRACKING® NUMBER
9470103699300057573507

DATE SUBMITTED
04/16/2021

SUMMARY

Refund Request History

Customer Service

Can't find what you're looking for?

Go to our FAQs section to find answers to your Service Refunds questions.

FAQs

Feedback

Gmail **Brian Carr <carrbp@gmail.com>**

USPS addl reply

Brian Carr <carrbp@gmail.com> Thu, Sep 16, 2021 at 2:43 PM
To: "Ward, Jennifer" <Jennifer.Ward@mail.house.gov>

Ms. Ward,

Yesterday on September 15, 2021 in the morning I called USPS accounting services at 1-866-974-2733 referring to the previous incident number INC000026481346 which Ms. Scarpelli cited and which was apparently opened previously when I had called on September 1, 2021 to find out the information about the refund on May 5, 2021. I spoke with about three representatives who kept referring me to another representative until on the fourth reference the accounting services system hung up on me (trying to refer to the same incident I had originally called about).

This afternoon I started again and spoke with Alex of Accounting Help Desk at Accounting Service Center. He found that the refund ID was 6006595 but could not give me the bank transaction details. He opened a new incident number 26497709 and said that someone would call me back with the information I required. Later I did get a return call from Marvin XF6HD0 of Customer Service who referred me back to accounting services but could not give me the details I was seeking.

Can you ask that Ms. Scarpelli contact accounting services directly with the new incident number 26497709 and refund ID 6006595 and ask that they contact me directly with the bank transaction details. My phone number is 972-504-0679 and my email is carrbp@gmail.com. Thanks to you both for your help with this.
Brian

On 9/15/2021 9:48 AM, Ward, Jennifer wrote:

> Mr. Carr,
>
> Please find below the reply received from Ms. Scarpelli in response to your difficulties.
>
> Jennifer L. Ward
>
> Director of Constituent Services
>
> Office of Congressman Marc Veasey-33CD-TX
>
> 6707 Brentwood Stair Rd., Suite 200
>
> Fort Worth, Texas 76112
>
> 817-920-9086
>
> 817-920-9324 fax
>
> ---
>
> **From:** Scarpelli, J.
> **Sent:** Wednesday, September 15, 2021 8:56 AM
> **To:** Ward, Jennifer <Jennifer.Ward@mail.house.gov>
> **Subject:** RE: [EXTERNAL] Mr. Brian Carr

26-10025.550

Good morning Jennifer,

I can assure you that Vanessa and I have tried multiple times to get the information Mr. Carr is requesting. Due to privacy reasons they will not provide the information to us, other than to state the refund was issued to the original form of payment he used. My only other suggestion is for Mr. Carr to call our accounting service center at 1-866-974-2733 and refer to incident # INC000026481346.

I am sorry, but there is nothing more that can be done from here.

Joann Scarpelli| Customer Relations Specialist| Texas District 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S

DEFENDANTS' CERTIFICATE OF CONFERENCE

On Thursday April 4, 2024, the undersigned assistant U.S. attorney conferred with pro se Plaintiff Brian Carr over the phone for about an hour. The call was productive for the federal government to understand the nature and bases of Plaintiffs' claims. In that call, the undersigned counsel for the government informed Mr. Carr that the federal government is not opposed to Plaintiffs' filing an amended complaint, which would render the federal government's motion to dismiss moot, and that, in the future, Plaintiffs should contact opposing counsel before filing a non-dispositive motion. The undersigned followed up in an email confirming in writing that Defendants provide written consent to the filing of an amended complaint. As such, Defendants do not believe that a ruling is required on Plaintiffs' motions for leave (ECF Nos. 18 and 20). Instead, Plaintiffs should simply file the amended complaint with the written consent of the federal government under Federal Rule of Civil Procedure 15(a)(2)—it is not necessary for the Court to rule on a motion for leave. Defendants plan to file a pleading responsive to Plaintiffs' amended complaint within 14 days of Plaintiffs' filing of an amended complaint (which

has not yet occurred) as prescribed by Rule 15(a)(3). Defendants will separately respond to Plaintiffs' motion for partial summary judgment by April 18, 2024.

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ George M. Padis
George M. Padis
Assistant United States Attorney
Texas Bar No. 24088173
1100 Commerce Street, Third Floor
Dallas, Texas 75242
Telephone: 214-659-8600
Fax: 214-695-8807
george.padis@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

On April 8, 2024, 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, the foregoing document was served via U.S. mail to the Plaintiff, pro se, listed below:

/s/ George M. Padis
George M. Padis

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S

DEFENDANTS' MOTION UNDER RULE 56(D) TO DEFER CONSIDERATION OF OR DENY PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, FOR AN EXTENSION TO RESPOND TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

In response to Defendants' motion to dismiss (ECF No. 15), which remains pending,[1] Plaintiffs filed (without first conferring with Defendants' counsel) a motion for (among other things) a partial summary judgment in Plaintiffs favor. ECF No. 18. As the Court has not ruled on Defendants' motion to dismiss and Defendants have not yet filed an answer, Defendants move under Federal Rule of Civil Procedure 56(d) for the Court to either deny Plaintiffs' summary judgment motion as premature or, in the alternative, to extend Defendants' response deadline until 60 days after a decision on

[1] Defendants did not file a reply in support of the motion to dismiss because Plaintiffs indicated they intended to file an amended complaint, to which Defendants provided written consent (*see* ECF No. 21). Despite this consent, no amended complaint has been filed, so the motion to dismiss (ECF No. 15) remains pending (and has not been abandoned, as Plaintiffs have suggested in correspondence with defense counsel). If Plaintiffs file the previewed amended complaint, Defendants intend to file a motion to dismiss those claims, asserting defenses including lack of subject-matter jurisdiction and failure to state a claim.

Defendants' pending or to-be-filed motion to dismiss (within 14 days after the filing of Plaintiffs' contemplated amended complaint).

I. Background

Plaintiffs Brian P. Carr and Rueangrong Carr (husband and wife) together with Mrs. Carr's sister, Buakhao Von Kramer sue Defendants the United States of America and several other federal agencies for allegedly having violated the Due Process Clause of the Fifth Amendment to the U.S. Constitution. Plaintiffs seek money back from the United States Postal Service (USPS) for an allegedly delayed delivery of a package and a court order mandating that various federal agencies including the U.S. Department of Justice initiate criminal investigations into the circumstances surrounding their various attempts to obtain immigration benefits, including naturalization for Mrs. Carr and a non-immigrant visa for Mrs. Von Kramer.

On March 8, 2024, the United States and the other federal agency Defendants timely moved to dismiss Plaintiffs' entire complaint. ECF No. 15. Twenty days later, on March 28 and again on April 5, 2024, Plaintiffs filed what appears to be a combined response to Defendants motion to dismiss, a "motion to amend complaint," ECF No. 18, at 51, and curiously a "motion for partial summary judgment," *id.* at 52–53. Counsel for the United States contacted pro se Plaintiff Brian Carr to discuss the case and Plaintiffs' various motions and to provide the Defendants' written consent to the filing of an amended complaint, which would moot the motion to dismiss and the various motions. ECF No. 21. (Plaintiffs' claims in the contemplated amended complaint likely remain

subject to dismissal for lack of subject-matter jurisdiction, failure to state a claim, and as frivolous, and Defendants would most likely again timely move to dismiss Plaintiffs' amended complaint; however, early in the case Defendants agreed to consent to the filing of amended complaint as a courtesy.)

Nonetheless, no amended complaint has been filed.

II. Legal Standards

A. Federal Rule of Civil Procedure 6(b)(1)(A)

District courts have discretion to grant extensions of time for good cause. *See* Fed. R. Civ. P. 6(b)(1)(A) (stating that courts may grant an extension for good cause "if a request is made [] before the original time or its extension expires"). So long as the request is made before the expiration of the time limit at issue, courts may extend time for any reason. *See L.A. Pub. Ins. Adjusters, Inc. v. Nelson*, 17 F.4th 521, 524 (5th Cir. 2021). Such requests "normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party." *Bakri v. Nautilus Ins. Co.*, No. 3:21-CV-2001-N, 2023 WL 1805142, at *1 (N.D. Tex. Feb. 7, 2023) (quoting 4B Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (4th ed. 2008)).

B. Federal Rule of Civil Procedure 56(d)

The Fifth Circuit has repeatedly explained that summary judgment is generally appropriate only after a non-movant has had a full opportunity to conduct relevant discovery. *See, e.g.*, *Bailey v. KS Mgmt. Servs., L.L.C.*, 35 F.4th 397, 401 (5th Cir. 2022). If a party moves for summary judgment prematurely, then the non-movant may move that the Court "defer considering the motion or deny it" under Rule 56(d). If the non-movant

"shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition," the Court "may . . . defer considering the motion or deny it." Fed. R. Civ. P. 56(d)(1). To obtain relief, the party invoking Rule 56(d) must show that "(A) that additional discovery will create a genuine issue of material fact"; and "(B) that [it] diligently pursued discovery." *Bailey*, 35 F.4th at 401. "Such motions are broadly favored and should be liberally granted." *Culwell v. City of Fort Worth*, 468 F.3d 868, 871 (5th Cir. 2006); *see also Wichita Falls Off. Assocs. v. Banc One Corp.*, 978 F.2d 915, 919 n.4 (5th Cir. 1992) (explaining that these motions "should be granted almost as a matter of course").

II. Argument and Authorities

When a plaintiff files a motion for summary judgment, it "essentially takes the position that [it] is entitled to prevail as a matter of law because the opponent has no valid defense to the action." *Rogers v. McLane*, No. 5:22-CV-130-BQ, 2022 WL 17418978, at *2 (N.D. Tex. Nov. 14, 2022), *R&R adopted*, 2022 WL 17418016 (N.D. Tex. Dec. 5, 2022). Defendants assert that Defendants have substantial defenses to this action and have a legal right to assert such defenses in response to Plaintiffs' partial summary-judgment motion, as set forth in Defendants' motion to dismiss. But Plaintiffs' premature motion here prevents Defendants from having the opportunity to fully articulate potentially case-dispositive defenses supported by evidence in the unlikely event Defendants' motion to dismiss is denied. Defendants therefore move that the Court defer adjudication of or deny Plaintiffs' early partial summary-judgment motion to allow

these threshold questions to be resolved.

A. Federal courts typically dismiss without prejudice summary-judgment motions filed by a plaintiff before the answer deadline.

Technically, the Federal Rules of Civil Procedure allow a party to file a motion for summary judgment before an answer has been filed. *See* Fed. R. Civ. P. 56(a); *see also HS Res., Inc. v. Wingate*, 327 F.3d 432, 440 (5th Cir. 2003) (explaining that "an answer is not a prerequisite to the consideration of a motion for summary judgment"). "However, courts have approached such motions with extreme caution." *Matini v. Reliance Standard Life Ins. Co.*, No. 1:05-CV-944-JCC, 2005 WL 2739030, at *2 (E.D. Va. Oct. 24, 2005); *see also Rogers*, 2022 WL 17418978, at *3 (collecting cases where courts denied plaintiffs' summary judgment motions when they were filed before the defendant had answered or the court was still conducting preliminary screening).

"Federal courts . . . are permitted to dismiss a motion for summary judgment without prejudice if it is filed before any party answers." *Dowl v. Prince*, No. 11-CV-0417, 2011 WL 2457684, at *1 (E.D. La. June 20, 2011). In fact, a court should *not* grant a summary-judgment motion filed before an answer "unless in the situation presented, it appears to a certainty that no answer which the adverse party might properly serve could present a genuine issue of fact." *Stuart Inv. Co. v. Westinghouse Elec. Corp.*, 11 F.R.D. 277, 280 (D. Neb. 1951). As a result, courts both in this district and across this Circuit have often denied plaintiffs' summary judgment motions as premature when filed before an answer. *See, e.g.*, *Rogers*, 2022 WL 17418978, at *3; *Watkins v. Monroe*, No. 6:18-CV-347, 2019 WL 1869864, at *1 (E.D. Tex. Mar. 27, 2019), *R&R adopted*, 2019 WL

18581000 (E.D. Tex. Apr. 25, 2019); *Kuperman v. ICF Int'l*, No. Civ. A. 08-565, 2008 WL 647557, at *1 (E.D. La. Mar. 5, 2008); *Wartsila v. Duke Cap. LLC*, No. Civ. A. H-06-3908, 2007 WL 2274403, at *5 (S.D. Tex. Aug. 8, 2007); *see also Gabarick v. Laurin Mar. (Am.), Inc.*, 406 F. App'x 883, 889–90 (5th Cir. 2010) (remanding case because the grant of summary judgment was premature as the pleadings were "in their infancy" and "very little discovery [had] taken place").

Adjudicating a plaintiff's summary-judgment motion before the defendants "have yet to file answers to the complaint or oppositions of a substantive nature to the motions for summary judgment" could result in a decision that "overlook[s] material issues of fact which might have been raised." *First Am. Bank, N.A. v. United Equity Corp.*, 89 F.R.D. 81, 87 (D.D.C. 1981).

That exact result is a possibility here based on the current deadlines. After all, Defendants assert that lack of subject-matter jurisdiction and failure to state a claim may bar Plaintiff from receiving any relief on his claims in this case. Moreover, Defendants are still evaluating whether Defendants have any other defenses that should be explored in discovery. A ruling on Defendants' motion to dismiss would likely significantly narrow the matters actually at issue in summary judgment. As a result, Defendants seek a ruling on Defendants' motion to dismiss and the opportunity to file an answer and engage in discovery before Plaintiffs' partial summary-judgment motion is evaluated by the Court.

B. The Court should defer or deny Plaintiffs' motion for summary judgment under Federal Rule of Civil Procedure 56(d).

Defendants moves that the Court defer consideration of or deny Plaintiffs' motion for summary judgment under Rule 56(d) because discovery will be necessary for Defendants to adequately respond to Plaintiffs' motion if Defendants' own motion to dismiss is denied, but the Federal Rules do not allow for discovery at this stage of litigation. *See Bailey, L.L.C.*, 35 F.4th at 401 (requiring a party to show that additional discovery will create a genuine issue of material fact and diligence).

1. Discovery would be appropriate here as it will create a genuine issue of material fact.

As Defendants have asserted in the pending motion to dismiss, Plaintiffs have not stated a claim. *See* Fed. R. Civ. P. 12(b)(6). If this case survives the motion to dismiss, the undersigned AUSA would like the opportunity to investigate the circumstances of Plaintiffs' underlying disputes.

The Fifth Circuit has repeatedly held that a district court abuses its discretion by denying a proper Rule 56(d) motion before the close of the discovery period. *Bailey*, 35 F.4th at 401 (holding that a Rule 56(d) movant averred that additional discovery would create a genuine fact dispute and that she diligently pursued discovery such that "the district court abused its discretion in holding otherwise."); *see id.* at 399 ("This is the third time we have been asked to consider whether a particular district court can deny discovery rights protected by the Federal Rules of Civil Procedure . . . . We have twice held no," and [t]oday we so hold a third time."). "When a party is not given a full and fair opportunity to discover information essential to its opposition to summary judgment,

the limitation on discovery is reversible error." *Access Telecom, Inc. v. MCI Telecomm. Corp.*, 197 F.3d 694, 720 (5th Cir. 1999). Other U.S. courts of appeals have similarly held that district courts "[t]ypically" abuse their discretion if they deny a timely and proper Rule 56(d) motion and rule on a Rule 56 motion before the parties have an opportunity for discovery. *See, e.g.*, *In re PHC, Inc. S'holder Litig.*, 762 F.3d 138, 144 (1st Cir. 2014) (citing *CenTra, Inc. v. Estrin*, 538 F.3d 402, 420 (6th Cir. 2008)).

If Defendants motion to dismiss is denied, Defendants would seek discovery various issues to establish a genuine dispute of material fact. *See* App. 002–03, ¶¶ 3–5.[2] This information is essential to allow Defendants to fully respond to Plaintiffs' assertions in their partial summary-judgment motion. *See* App. 003, ¶¶ 5–6.

2. Defendant cannot even begin discovery at this time.

As explained in detail above, Defendants' deadline to respond to the complaint has not yet occurred. *See* App. 002, ¶ 3. Thus, logically, the parties have not yet conferred in accordance with Rule 26(f), given that such conferences generally occur after the defendant files a response to the complaint. *See* Fed. R. Civ. P. 26(f)(2)–(3). But "[a] party may not seek discovery from any source" before the Rule 26(f) conference occurs, except for limited exceptions such as by stipulation or a court order. Fed. R. Civ. P. 26(d). Thus, discovery is not allowed under the Federal Rules of Civil Procedure at this time.

Moreover, Plaintiffs would be still allowed 30 days to respond to any written

[2] "App." citations refer to the appendix being filed with this motion.

discovery requests under the Rules. *See, e.g.*, Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2)(A); Fed. R. Civ. P. 36(a)(3). Thus, even if Defendants had served written discovery the day after Plaintiffs filed their summary-judgment motion (which discovery would have been in violation of the Federal Rules), Plaintiffs would not have been required to respond to the discovery requests until after Defendants' deadline to respond to the summary-judgment motion. Thus, Defendants has not been dilatory in seeking the necessary discovery. Indeed, Defendants literally cannot request discovery yet and realistically would have not received much (if any) of the requested information in time to incorporate into any summary-judgment response.

C. In the alternative, Defendants have established good cause for an extension of time to respond to Plaintiff's summary-judgment motion.

To the extent the Court does not deny Plaintiffs' motion without prejudice as premature, or does not defer consideration of or deny Plaintiffs' motion under Rule 56(d), Defendants would respectfully request an extension of time to respond to Plaintiffs' partial summary-judgment motion. A court may, for good cause, extend time "for any reason" if the request is made "prior to the expiration of the time limit at issue." *Nelson*, 17 F.4th at 524 (citing Fed. R. Civ. P. 6(b)(1)(A)). Rule 6(b)(1)(A) "should be liberally construed to advance the goal of trying each case on the merits." *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016). Indeed, district courts normally grant extension requests made before the deadline in the absence of bad faith by the requesting party or prejudice to the adverse party. *See Reed Migraine Ctrs. of Tex., PLLC v. Chapman*, No. 3:14-CV-1204-N, 2020 WL 869888, at *1 (N.D. Tex. Feb. 21, 2020) (quoting 4B Charles Alan

Wright & Arthur R. Miller, *Federal Practice and Procedure* § 1165 (4th ed. 2008)).

Defendants request an extension of time to respond until 60 days after the Court issues a decision on Defendants' motion to dismiss or contemplated motion to dismiss the amended complaint (should Plaintiffs file it). This would ensure neither the parties nor the Court are expending unnecessary resources on briefing and evaluating the summary-judgment motion if the matter is dismissed either in whole or in part based on Defendants' pending or to-be-filed Rule 12 motions. Defendants would also request this additional time to respond to the summary-judgment motion so that they are not simultaneously briefing a motion to dismiss and a summary-judgment response in this case. Further, this extension would allow Defendants time to prepare the necessary affidavit(s) to file with Defendant's summary-judgment response.

This extension also would not unduly prejudice Plaintiffs, as it would not result in any significant delay in adjudicating this case. Moreover, it would also inure to Plaintiffs' benefit to avoid further summary-judgment briefing for any resolved claims and to avoid responding to the motion to dismiss and completing the summary-judgment briefing at the same time.

III. Conclusion

Plaintiffs' motion for partial summary judgment is premature because it comes well before Defendants has answered the complaint and before the threshold questions, of subject-matter jurisdiction and whether a proper claim has been asserted, have been decided. Therefore, the Court should defer considering Plaintiffs' partial summary-

judgment motion while these issues remain outstanding, or deny it without prejudice as premature.

Date: April 17, 2024

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ George M. Padis
George M. Padis
Assistant United States Attorney
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Dallas, Texas 75242-1699
Telephone: 214-659-8600
Fax: 214-659-8807
george.padis@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

On April 17, 2024, I electronically filed the above response with the clerk of court for the U.S. District Court, Northern District of Texas. I certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ George M. Padis
George M. Padis

CERTIFICATE OF CONFERENCE

On April 17, 2024, I reached out to pro se Plaintiff Brian Carr to confirm that Plaintiffs are opposed to the requested relief but did not receive a response. I will update this certificate of conference when a response is received.

/s/ George M. Padis
George M. Padis

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S

APPENDIX

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ George M. Padis
George M. Padis
Assistant United States Attorney
Texas Bar No. 24088173
1100 Commerce Street, Third Floor
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Attorneys for Defendants

Exhibit

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al., Plaintiffs, v. UNITED STATES OF AMERICA, et al., Defendants.	Civil Action No. 3:23-CV-02875-S

RULE 56(D) DECLARATION OF GEORGE M. PADIS

I, George M. Padis, declare:

1. I am competent to make this declaration, and the facts in this declaration are within my personal knowledge.

2. I am a member of the state bar of Texas, admitted to practice before this Court, and as an Assistant United States Attorney for the United States Attorney's Office for the Northern District of Texas. I represent Defendants in this case.

3. Plaintiffs filed a motion for partial summary judgment before Defendants received a ruling on Defendants' motion to dismiss and before Defendants' deadline to file an answer.

4. If Defendants' motion to dismiss is denied, Defendants intend to seek discovery to respond to the allegations in the complaint (or the contemplated amended complaint), including serving written discovery on each Plaintiff and taking the depositions of each Plaintiff. Defendants may

need to rely upon an administrative record, which has not yet been assembled or filed in this case.

5. Completing the above-mentioned discovery is necessary to fully respond to the assertions that Plaintiffs rely upon in their motion.

6. Defendants cannot at this time present facts essential to justify its opposition to Plaintiffs' motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 17, 2024.

GEORGE PADIS Digitally signed by GEORGE PADIS Date: 2024.04.17 16:38:25 -05'00'

George M. Padis
Assistant United States Attorney

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 Motion to Correct Typographical and Clerical Errors Pursuant to Rule 5.2 and Rule 60a of the FRCP

Pursuant to Federal Rule of Civil Procedure 5.2 and 60(a) Plaintiffs respectfully move seeking orders from the court:

1. Sealing Doc 20-1 in this matter.
2. Adding the first exhibit attached to this motion as a properly redacted version of the same document.
3. for other and further relief as the Court deems just and proper.

Justification

2. The Plaintiffs submitted Doc 20-1 in this matter with the title:

   AirGCexp20201113redacted.pdf Redacted copy of Mrs. Carr's Conditional Permanent Resident ID Card which lists expiration date of 13 Nov 2020.

3. Doc 20-1 was partially redacted my Mr. Carr, a plaintiff in this matter, but Mr. Carr was unaware of the fraud protection measures in the ID Card which listed Mrs. Carr's name and date of birth in a counterfeit resistant section which was

also not clearly legible. As a result, Mrs. Carr month and date of birth were not properly redacted.

4. Mr. Carr apologizes to the court and all parties for not properly redacting the cited document but expects that if the original filing of Doc 20-1 is sealed preventing future public access and the attached replacement document is added to the record there should be no damage to any party from this inadvertent error.

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 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 Apr 2024
Location: Irving, Texas

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


UNITED STATES OF AMERICA
PERMANENT RESIDENT
Surname
CARR
Given Name
RUEANGRONG
USCIS#
Category
CR1
Country of Birth
Thailand
Date of Birth
1961
Sex
F
Card Expires:
11/13/20
Resident Since:
11/13/18

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 Certificate of Conference for Motion to Correct Typographical and Clerical Errors (Doc 24 filed 19 Apr 2024)

Certificate of Conference

Apology For Delay in Conference

The plaintiffs apologize to the court and the defendants for the failure to consult with defendants' attorney (USATXN) before filing the cited Motion on 19 Apr 2024 (Doc 24) as required by the Court's Local Civil Rule LR 7.1.

The omission was unintentional and was caused by the desire to seal the improperly redacted record as soon as possible. As I integrate LR 7.1, I will endeavor to change my workflow so that I send an email to opposing council as soon as I start working on any motion. In most cases I already know what the response of opposing council will be, but it is simple enough to get confirmation.

Conference Held on 22 Apr 2024

Motion to Seal Document 20-1 UNOPPOSED.

Respectfully submitted,

Verification of Certificate

I, the undersigned Plaintiff, hereby affirm under penalty of perjury in both the United States and Thailand that:

1. I have reviewed the above certificate 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 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: 22 Apr 2024
Location: Irving, TX

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

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et al.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	Case No. 3:23-cv-02875-S-BT
	§	
UNITED STATES OF AMERICA, et al.,	§	
	§	
	§	
Defendants.	§	

ORDER

Before the Court is Defendants' Motion under Rule 56(d) (ECF No. 22), in which Defendants move the Court to either (1) defer consideration of or deny Plaintiffs' Motion for Partial Summary Judgment (ECF No. 18) as premature or (2) in the alternative, extend the deadline for Defendants to respond to the Motion for Summary Judgment until after the Court's decision on Defendants' currently pending Motion to Dismiss.

This case arises out of *pro se* Plaintiffs Brian P. Carr, Rueangrong Carr, and Buakhao Von Kramer's allegations that the United States of America, along with several other federal agencies, have violated their constitutional rights throughout various attempts by Ms. Carr and Ms. Von Kramer to obtain immigration benefits. *See* Compl. (ECF No. 3). Defendants filed a Motion to Dismiss on March 8, 2024, seeking to dismiss Plaintiffs' Complaint for lack of jurisdiction, failure to state a claim, and failure to identify an applicable waiver of

sovereign immunity. Mot. Dismiss (ECF No. 15). In response, and within the 21-day deadline, Plaintiffs filed a 59-page document that included a response to Defendants' Motion to Dismiss, a Motion for Partial Summary Judgment, and a Motion for Leave to Amend. *See* Mot. P. Summ. J. (ECF No. 18). Plaintiffs then filed a "Certificate of Conference" with the subheading "Apology for Delay in Conference," explaining that the proposed Amended Complaint (ECF No. 18-1) contains only minor changes and that Defendants are not opposed to the amendment. *See* Cert. 1–2. (ECF No. 20). Plaintiffs also noted, correctly, that the amendment was timely under Federal Rule of Civil Procedure 15(a)(1)(A). *See id.* at 2. Defendants have indicated that they plan to file a Motion to Dismiss Plaintiffs' Amended Complaint, when the Amended Complaint is filed. *See* Defs.' Cert. (ECF No. 21); 56(d) Mot. 10 (ECF No. 22). The Amended Complaint, though attached as an appendix to Plaintiffs' Motion for Partial Summary Judgment, has not yet been filed as a separate entry on the docket.

Having considered the instant Motion, Defendants' brief, and the supporting affidavit explaining that Defendants cannot respond to the assertions in Plaintiffs' Motion for Partial Summary Judgment without the benefit of discovery, the Court concludes that there is good cause to **GRANT** Defendants' Motion under Rule 56(d) (ECF No. 22) and **DENY** Plaintiffs' Motion for Partial Summary Judgment (ECF No. 18) as premature. *See* App'x (ECF No. 23). The Court further **DENIES** as moot Plaintiff's Motion to Amend their Motion for Partial Summary Judgment (ECF No. 20) and their Motion to Correct

Typographical Errors (ECF No. 24). In light of Plaintiffs' stated intent to amend their complaint, the Court also **DENIES** as moot Defendants' Motion to Dismiss (ECF No. 15).

To further aid the efficient resolution of the case, the Court **ORDERS** as follows:

1. Plaintiffs must file their Amended Complaint on the docket[1] by **April 30, 2024.**

2. Defendants must file an Answer to Plaintiffs' Amended Complaint or a Rule 12 Motion to Dismiss the Amended Complaint within **21 days after Plaintiffs file their Amended Complaint.**

3. Plaintiffs may file a response to Defendants' anticipated Motion to Dismiss their Amended Complaint within **21 days after Defendants file their Motion.** N.D. Tex. L. Civ. R. 7.1(e). Defendants may file a reply within **14 days after Plaintiffs file their response**. N.D. Tex. L. Civ. R. 7.1(f).

4. The Court will postpone the entry of a Rule 16(b) Scheduling Order until after the disposition of Defendants' anticipated Motion to Dismiss. *See* Fed. R. Civ. P. 16(b)(2).

SO ORDERED.

April 22, 2024

REBECCA RUTHERFORD
UNITED STATES MAGISTRATE JUDGE

[1] Plaintiffs included their proposed Amended Complaint as an appendix to their combined Motion for Partial Summary Judgment and Response to Defendants' Motion to Dismiss. Plaintiffs should file this same proposed Amended Complaint as a separate docket entry titled "Amended Complaint."

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN P. CARR, et. al., Plaintiffs, v. UNITED STATES OF AMERICA, et. al., Defendants.	Civil Action No. 3:23-CV-02875-S-BT

NOTICE OF SUBSTITUTION OF COUNSEL

Pursuant to Local Civil Rule 83.12(b), the undersigned Assistant U.S. Attorney Emily H. Owen substitutes as lead counsel of record for Defendants, replacing Assistant U.S. Attorney George Padis.

Respectfully submitted,

LEIGHA SIMONTON
UNITED STATES ATTORNEY

/s/ Emily H. Owen
Emily H. Owen
Assistant United States Attorney
Texas Bar No. 24116865
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214.659.8605
Fax: 214.659.8811
E-mail: emily.owen@usdoj.gov
Attorneys for Defendants

CERTIFICATE OF SERVICE

On April 23, 2024, I electronically filed the above Notice with the clerk of court for the U.S. District Court, Northern District of Texas. I certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Emily H. Owen
Emily H. Owen
Assistant United States Attorney

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 Reply in Support of Motion for Partial Summary Judgment (Doc 19) Response Opposing Defective Motion to Continue Consideration (Doc 22)

Reply in Support of

Motion for Partial Summary Judgment

and

Response Opposing Defective

Motion to Continue Consideration

In the widely cited Areizaga v. ADW Corp., No. 3:14-cv-2899-B (N.D. Tex. Jun. 28, 2016) this court found:

> FRCP Rule 56(d) is "designed to safeguard against a premature or improvident grant of summary judgment." Washington v. Allstate Ins. Co., 901 F.2d 1281, 1285 (5th Cir. 1990). To justify a continuance, the Rule 56(d) motion must demonstrate (1) why the movant needs additional discovery and (2) how the additional discovery will likely create a genuine issue of

material fact. See Stearns Airport Equip. Co. v. FMC Corp., 170 F.3d 518, 534-35 (5th Cir. 1999) …

The nonmovant, however, must "present specific facts explaining his inability to make a substantive response ... and specifically demonstrating how postponement of a ruling on the motion will enable him, by discovery or other means, to rebut the movant's showing of the absence of a genuine issue of fact" and defeat summary judgment. Washington, 901 F.2d at 1285 ... (construing former FED. R. CIV. P. 56(f)). The nonmovant "may not simply rely on vague assertions that additional discovery will produce needed, but unspecified, facts." Raby, 600 F.3d at 561 (quoting SEC v. Spence & Green Chem. Co., 612 F.2d 896, 901 (5th Cir. 1980)). "Rather, a request to stay summary judgment under [Rule 56(d)] must 'set forth a plausible basis for believing that specified facts, susceptible of collection within a reasonable time frame, probably exist and indicate how the emergent facts, if adduced, will influence the outcome of the pending summary judgment motion.'" Id. (quoting C.B. Trucking, Inc. v. Waste Management Inc., 137 F.3d 41, 44 (1st Cir. 1998)). The party requesting the additional discovery or extension also must show that relevant discovery has been diligently pursued. See Wichita Falls Office Assocs. v. Banc One Corp., 978 F.2d 915, 919 (5th Cir. 1992). "If it appears that further discovery will not provide evidence creating a genuine issue of material fact, the district court may grant summary judgment." Raby, 600 F.3d at 561 (quoting Access Telecom, Inc. v. MCI Telecomm. Corp., 197 F.3d 694, 720 (5th Cir. 1999)).

In contrast, the supporting affidavit (Doc 23) states only:

...

> 4. If Defendants' motion to dismiss is denied, Defendants intend to seek discovery to respond to the allegations in the complaint (or the contemplated amended complaint), including serving written discovery on each Plaintiff and taking the depositions of each Plaintiff. Defendants may need to rely upon an administrative record, which has not yet been assembled or filed in this case.
>
> 5. Completing the above-mentioned discovery is necessary to fully respond to the assertions that Plaintiffs rely upon in their motion.
>
> 6. Defendants cannot at this time present facts essential to justify its opposition to Plaintiffs' motion.

Plaintiff's agree strongly with paragraph 6 above but disagree with the inference that there are not sufficient affirmed statements (in the verified Amended Complaint, Doc 18-1 and verified Opposition to Defendants' Motion to Dismiss, Doc 18 (classified in Doc 20)) and the numerous certified true and accurate copies of documents in the record.

Defendants cannot present the 'essential facts' because there is no justification for its opposition to Plaintiff's Motion for Partial Summary Judgment (MfPSJ).

Indeed, it appears to the Plaintiffs that the USATXN has not actually carefully read any of these documents, instead skimming them to pick out words and phrases to generate specious spurious legal arguments. The 'specified facts' in USATXN's Affidavit could apply to almost any case which has an MSJ. Mr. Carr was unable

to find any reference to this particular MfPSJ.

USATXN has failed to meet the clear requirements stated in Raby and cited in Areizaga, "The nonmovant may not simply rely on vague assertions that additional discovery will produce needed, but unspecified, facts."

SSA Relief Well Founded and Supported by Undisputed Facts

To support a legitimate cause of action, it is incumbent on the Plaintiffs to establish a few elements. With SSA the cause of action is a little complex in that the duty and standing are derived from DoS and the Declaratory Relief which is sought in this MfPSJ is directed to the SSA. This could be problematic except that all of the Defendants in this matter are agencies of the United States and are not really distinct entities.

DoS Duty to Performance

In the verified Amended Complaint (Doc 18-1) paragraphs 4 and 84 to 104 there are affirmed statements that Mrs. Von Kramer applied for, paid for, scheduled, and attended three visa interviews in 2019 and in each case the visa application was denied based on a form letter letter citing INA 214(b), basically saying that she did not prove she that would not overstay any temporary visit though the form letter made no reference to any evidence which was considered.

This particularly troubling as in each case Mrs. Von Kramer had a packet of documents about one inch think with affirmations, flight tickets, invitation from

Mr. Carr promising accommodations, deeds, titles, diplomas, pay stubs, and numerous pictures of the houses, pets, car, and family.

In the first two interviewers the interviewer did not look at any of the documents in the 10 minute or so interaction and made an absurd verbal explanation for the denial such as 'no firm travel plans' (contradicted by the evidence available though it is questionable if any interviewer could have carefully reviewed all the documents in the 10 minutes or so allocated).

Unique Legal Questions for SSA

These material facts and the relevant INA statutes demonstrate duty and failure to perform and are undisputed. There are legal questions as to whether the court has jurisdiction to intervene in this matter (according to the disputed Doctrine of Consular Non Reviewablity (DoCNR)), but the particular relief sought is a Declaration that Mrs. Von Kramer was improperly denied her ability to demonstrate 'her sincere desire to establish enduring ties to the U.S.'

Kleindienst v. Mandel, 408 U.S. 753, 766 (1972) endorses DoCNR, but creates exceptions requiring the court to insure there was a 'Facially Legitimate and Bona Fide Reason'. According to that test the failure to perform is clearly demonstrated as there was no discussion of the evidence to support the cited statutes.

There are three arguable justifications to extend Mrs. Von Kramer right to Due Process in Consular decisions.

1. On marriage to a U.S. citizen Mrs. Von Kramer was recognized as a person

who was entitled to Due Process in consular activities and that entitlement continues beyond the death of her spouse, e.g. the U.S. and Thailand each only recognize marriages as a legal union between two people which implies a recognition that Mrs. Von Kramer is a person (and would continue as person for the remainder of her life),

2. When Congress made special recognition for spouses of deceased pre-1968 veterans in restrictions on overseas payment of government assistance to foreign nationals, Congress intrinsically recognized that such surviving spouses were entitled to Due Process in consular activities, and
3. DoCNR is fundamentally flawed as Mrs. Von Kramer is a person and, hence, entitled to Due Process in all interactions with the U.S. government (and DoCNR should be relegated to the trash can of history where it belongs).

Further, even if DoCNR is held to be valid, the court is not subjecting DoS consular activities to court oversight as the relief sought does not impact DoS in any way, it is a simple declaration allowing SSA to consider additional factors in its 'lawful presence' analysis.

SSA Not Bound By Declaration

SSA has wide discretion in granting 'lawful presence' status in accordance with SSA POM RS 02610.025 5-Year Residency Requirement for Alien Dependents / Survivors. Mr. Carr has had a few disputes with SSA concerning Due Process and complained to SSA OIG on more than one occasion, but in each case SSA and SSA OIG were responsive and all such disputes were promptly resolved.

In those discussions SSA clearly stated that they do not make any determinations of whether a person is in the U.S. legally, but rely on other agencies (primarily Customs and Border Patrol (CBP)) for such determinations. As such, while SSA is a Defendant in this matter, their 'Order' amounts to mostly a declaration by the Court for SSA to consider as an additional factor in their 'lawful presence' decision. It is not binding on SSA in any way.

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..'

Mr. Carr is confident that with the requested declaration from this court, SSA will grant Mrs. Von Kramer five year 'lawful presence' and will reduce Mrs. Von Kramer's expense and inconvenience of six month visits and SSA will reduce their administrative verification burden. There will be no change in Mrs. Von Kramer's SSA benefits.

Mr. Carr is also concerned that USATXN has not ever clearly stated SSA's position on this requested declaratory relief. It is Mr. Carr's expectation that SSA would be happy to be removed as a defendant in this matter.

USCIS Duty to Perform

On 13 Nov 2018 USCIS issued a 'green card' to Mrs. Carr with an expiration date

of 13 Nov 2020 (it was a two year conditional 'green card' for spouses who have not been married for two years as of the date of the I-30 application) as can be seen in Doc 24-1.

On 8 Aug 2020 USCIS accepted Mrs. Carr I-751 application and $680 fee to remove the conditions from Mrs. Carr's 'green card' (Doc 18-1 para 147). According to 8 CFR Section 216.4(b)(1) USCIS must process the I-751 application within 90 days, waiving the interview if necessary to promptly issue a new 'green card'.

Instead USCIS sent Mrs. Carr an 18 month extension letter and later a 24 month extension letter as can be seen in Doc 18-6 which expired on 13 Nov 2022.

On 11 July 2022 USCIS accepted Mrs. Carr's N-400 application with the $725 fee as described in Doc 18-1 paragraph 148. However, as her 'green card' extension letter expired on 13 Nov 2022, Mrs. Carr was stranded in Thailand and had to get a non immigrant visa from DoS in order to return to the United States.

On 3 Jan 2023 Mrs. Carr got an A-551 stamp in her Thai passport with an expiration date of 02 Jan 2024 allowing to work and travel freely for the one year period which can be seen in Doc20-2.

The joint N-400 and I-751 interview was completed on 30 Jan 2022 as described in Doc 18-1 para 161. The final results of the interview were in the USCIS Final Findings of Facts, Decision and Order on 31 Jan 2023 published with notice to all parties via the I-797 shown in Doc-10-5. In that USCIS decision both the I-751

(for normal 10 year green card) and N-400 (citizenship) applications were approved as stated in Doc 18-1 para 163 which stated in part:

> We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship.

A simple reading of that final decision implies that Mrs. Carr need only schedule her 'Oath of Allegiance' with USCIS (a purely administrative process) and Mrs. Carr would be a citizen. However, in the more than one year since that final decision, USCIS has failed to provide Mrs. Carr with any clear proof that she is not an 'illegal' (subject to deporting by vigilantes under the pending Texas SB4 law as all the previous cited documents have clearly expired) or a citizen (precluding important privileges such as voting).

As noted above all the previous proof of permanent resident status documents have expired and there is no replacement possible at this time (as explained in Doc 18-1 concerning recent efforts to get any such document, see paragraphs 166 and 205 to 209).

It is inexplicable as to why USCIS has failed to fulfill its obligations from the final decision of 31 Jan 2023 (Doc 10-5), but this court is not asked at this time to sort through the numerous contradictory documents which USCIS has filed since then. That can be left to be clarified and resolved after discovery but Mrs. Carr must be

promptly provided with clear proof that she is not an 'illegal' and provided with the rights of citizenship (and ability to vote) in accordance with final USCIS decision of 31 Jan 2023 (Doc 10-5).

Indeed, within thirty days (the normal period for a Notice of Appeal from a final decision) the Plaintiffs contacted USCIS and attempted to schedule the 'Oath of Allegiance' only to be told the normal delay for that was four to five months. This was nonsense as the normal period for scheduling an 'Oath of Allegiance' is from immediate (at the end of the interview) to a couple of weeks. The four to five month period is normal for the scheduling of a second interview in the case of a failed N-400 (citizenship) test. This is mentioned solely to note that USCIS was aware of any purported 'typographical' errors in the final decision of 31 Jan 2023 (Doc 10-5) and USCIS made no effort to correct the error within the normal thirty days.

As all of the documents relied on to demonstrate USCIS's duty and failure to perform were provided by USCIS with certified copies in the record provided by the Plaintiffs there is no need for further discovery and deposing the Plaintiffs concerning USCIS documents is absurd. USATXN has had ample time to contact USCIS to find out the rationale for USCIS's clearly unlawful refusal to provide Mrs. Carr with proof of her permanent resident and citizen status.

Improper Motion for Continuance

Plaintiffs raise a novel objection that there is no statutory basis for any FRCP Rule 56(d) Motion for Continuance.

However, as this court has a long history of FRCP Rule 56(d) motions it is expected this court will overrule this objection. Indeed in Areizaga cited above the Rule 56(d) Motion is dealt with as a matter of course as are numerous other 5th Circuit cases. However, in the 3rd Circuit there is also a long history of Rule 56 Responses (in opposition to the MSJ).

Both seem to work well enough though the 3rd Circuit seems to discourage excessive motion practice but the 5th Circuit process only adds a minimal one week delay (assuming the MSJ Reply is within one week as required and addresses the 56(d) motion as in this Reply) and does add the flexibility of seeking additional time.

Mr. Carr finds the different treatment needlessly confusing and would prefer if the Supreme Court resolved the matter of FRCP 56(d) motions. If this court overrules this objection (expected as a matter of course) and the 5th Circuit affirms that ruling (also expected as a matter of course) then the Supreme Court might have the opportunity to resolve this discrepancy between Circuit Courts.

Of course the decision on this MfPSJ is expected to be interlocutory and it could well be years before any appeals are possible. However, given the broad opposition to the offensive (to the Plaintiffs) Doctrine of Consular Non Reviewability in this matter, there is also a distinct possibility that this matter could actually be brought before the Supreme Court.

If that is the case, Mr. Carr would like to be on the record as opposing FRCP 56(d)

Motions for Continuance (and in particular the conflict with 3rd Circuit decisions) so that the Supreme Court could consider the differences between Rule 56 MSJ procedures between the various Circuit Courts.

Defendants Have Not Shown Due Diligence in Pursuing Discovery

In Areizaga this court went on to say:

> The party requesting the additional discovery or extension also must show that relevant discovery has been diligently pursued. See Wichita Falls Office Assocs. v. Banc One Corp., 978 F.2d 915, 919 (5th Cir. 1992).

In the SSA relief, the court is asked to rely on the Plaintiffs' limited recollection of the three non immigration visas denied by DoS which occurred almost five years ago (2019). Admittedly Plaintiffs recollection is limited but there is little reason to believe that USATXN deposing the Plaintiffs will provide any additional useful insights.

In contrast, in the Complaints (Doc 10-1 and 18-1) paragraph 118 to 123 describe the FOIA efforts Mr. Carr has made to get the video recordings of those interviews (based on the unique Appointment IDs which Mr. Carr provided)[1] but DoS has denied access (and this denial is one of the Due Processes issues raised in the matter). Indeed, in 2018 Mr. Carr had specifically asked DoS to preserve the video recordings of the 2018 interview of Mrs. Carr in anticipation that litigation might be necessary in the event that the speculative damages Mr. Carr described in 2018 became actual damages as described in this matter (Mrs. Carr being stranded in

[1] The actual FOIA requests made general requests for "copies of all records to include audio and video recordings" with the video recordings being of primary interest though not specifically cited as such.

Thailand by the unlawful failures to perform of both DoS and USCIS).

The question Mr. Carr would present to Mr. Padis, is what actions did Mr. Padis perform after carefully reading paragraphs 118 to 123 to determine which of the four video recordings are currently available and might provide insights which the court could use in deciding if the visa denials were 'improper'.

It should also be noted that DoS will remain a Defendant in this matter in any case and the court and parties will have ample opportunity to review any recordings which have been retained.

Defendants Affidavit in Opposition Justifies Novel Costs Treatment

Defendants' Affidavit is particularly egregious as overly broad and lacking specificity as required in Areizaga. While 5th Circuit courts limit such egregious responses through costs (see Areizaga, there would be no such penalty with a 3rd Circuit Response to an MSJ), such costs are not really applicable to the U.S. government or Pro Se parties.

However, excessive motion practice without any merit also needs to be discouraged as (amongst other things) it wastes the courts time wading through documents which have no merit and the opposition to those meritless documents.

Mr. Carr is not implying or inferring that USATXN has any malicious or malevolent intent. Mr. Carr assumes that USATXN has too many cases and not enough time to properly respond to all of them in a timely fashion. However, the

normal response is to juggle cases, making minimal responses as required to push off the deadline for each case until the next deadline.

This juggling of cases is not improper per se. However, if it leads to generating meritless Rule 56(d) Motions (as herein) or Motions to Dismiss, then it needlessly wastes the time of both court and the other parties to the case.

In this regard, this court is asked to consider holding USATXN personally liable for community service based on 28 USC section 1927 which states:

> Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

as well as FRCP Rule 56(h) Summary Judgment, Bad Faith which states:

> Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court - after notice and a reasonable time to respond - may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or **subjected to other appropriate sanctions**.[2]

FRCP Rule 11(c)(3) states:

> (3) On the Court's Initiative. On its own, the court may order an attorney,

[2] Bold added by Plaintiffs.

law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).

In that regard, Mr. Carr is retired and not averse to community service. Mr. Padis's personal time is significantly more limited and the cost of Mr. Padis's professional time is loaded (with significant adjustments for training, experience and supporting staff and facilities). As such Mr. Carr is suggesting a factor of four such that for every four hours of Mr. Carr's time wasted preparing defenses against spurious filings by Mr. Padis, Mr. Padis should be required to provide the community with one hour of community service (personal time, to be clear). This could be in the form of Pro Bono legal aid (perhaps helping indigents caught up in Texas SB4 in Texas courts if SB4 becomes law and the U.S. government is not a party to the matter), but any form of the well established community service would be sufficient.

For the reasons stated in Plaintiffs' Motion for Partial Summary Judgment, Plaintiffs are seeking prompt relief for pressing issues of immediate concern. However, once USATXN files an Answer in this matter (preferably a well formed and well considered Answer), Plaintiffs intend to file a FRCP Rule 11 Motion for Sanctions for all the various delays which have not been previously addressed by the court.

However, in ruling on this MfPSJ and the Rule 56(d) Motion, this court could initiate proceedings to require a prompt Answer from USATXN and determine the appropriate sanctions in this matter based on the filings of USATXN to date.

Additional Areas for Sanctions Investigations

Early Attempts by Mr. Padis to Delay

This court is invited to consider Exhibit 1 attached to this Reply (likely Doc 28-1) RedactedEmailThread20240418.pdf which is a redacted email thread between Mr. Padis and Mr. Carr from 1 Mar 2024 to 5 Apr 2024. The courts' attention is called to the email 'On 3/1/2024 3:56 PM, Padis, George (USATXN)' where Mr. Padis makes the preposterous assertion:

> I have been made aware of the above-captioned civil action, but the U.S. Attorney's Office has no record of having been served in this case.

This is contradicted by Doc 10 in the record which is dated 11 Jan 2024 and contains adequate proof of service on USATXN on 9 Jan 2024.

This particular assertion is particularly egregious as it is a well known logical fallacy (under the simple premise that Mr. Padis is not omniscient) and it is exceedingly difficult to prove the non existence of a particular thing (record in this case) at a particular time and within a finite space.

In contrast, Mr. Carr would postulate that were there a careful review of all his technical / professional / legal writings / typings since his tutelage under Professor Ira Goldstein of the MIT AI Lab (see csail publications, AIM-381) in late 1976, such logical fallacies are exceedingly rare, possibly even non-existent. This particular claim may be rather tedious in its specificity, but it is quite accurate and supportable.

While Mr. Carr immediately recognized the logical fallacy and expected that Mr.

Padis was trying to trick Mr. Carr into granting Mr. Padis more time to respond he did not belabor the point but instead emphasized the importance of prompt relief for his wife. When Mr. Padis responded that there would be a 'timely response', Mr. Carr expected the usual 'Motion to Dismiss' but was disappointed with the quality of the Motion.

By Mr. Carr's personal estimation, Mr. Padis probably spent less than four hours preparing the actual motion even though he had more than a week to prepare it. This low estimate is based on the tenuous connection between the Motion to Dismiss and the actual Complaint. Mr. Padis made several assertions that had nothing to do with the matter at hand.

Mr. Carr further hypothesizes that had Mr. Padis spent eight hours writing a well founded Motion for Partial Dismissal (and requesting additional time to Answer) there would have been a substantial reduction in the time wasted by Mr. Carr and the court.

Mr. Carr asks that the court consider this exchange in its decision whether the court should initiate an Order To Show Cause for Sanctions.

Conclusion

For the reasons set forth above the court is asked to Grant the Motion for Partial Summary Judgment and Deny the Motion to Continue Consideration.

Respectfully submitted,

Verification of Reply and Response

We the undersigned Plaintiffs hereby affirm under penalty of perjury in both the United States and Thailand affirm that as individuals:

1. I have reviewed the above reply and response 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: 23 Apr 2024
Location: Irving, Texas

/s *Air Carr*

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061
Date: 23 Apr 2024
Location: Irving, Texas

/s *Buakhao Von Kramer*

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140 THAILAND
Date: 23 Apr 2024
Location: Irving, Texas

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

CERTIFICATION OF ELECTRONIC SIGNATURES

In accordance with TXND LR 11.1(d), on the recorded date I received permission from Mrs. Carr and Mrs. Von Kramer to sign this document electronically on their behalf after having discussed with them relevant sections of the document in English.

/s *Brian P. Carr*

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 23 Apr 2024
Location: Irving, Texas

On Fri, Apr 5, 2024 at 4:06 PM Padis, George (USATXN) <George.Padis@usdoj.gov> wrote:

> Hi Brian,
>
> Sorry, this isn't let's make a deal. But thanks for sharing those documents.
>
> You have the federal government's written consent to file an amended complaint by this email. So please file the amended complaint; otherwise I will file a certificate of conference indicating the federal government has consented to the filing of an amended complaint—which should moot all pending motions.
>
> I am asking if you would be willing to extend the federal government's deadline to respond to the amended complaint from 14 to 30 days. If you are opposed, that is fine, and I will file a motion for an extension as an opposed motion.
>
> Best,
>
> George
>
> George M. Padis
>
> Assistant U.S. Attorney
>
> (214) 659-8645
>
> **From:** Brian Carr <carrbp@gmail.com>
> **Sent:** Friday, April 5, 2024 3:58 PM
> **To:** Padis, George (USATXN) <GPadis@usa.doj.gov>
> **Subject:** Re: [EXTERNAL] Re: Carr v. United States, No. 3:23-cv-2875-S (N.D. Texas)
>
> Hi George,
>
> Sorry for the confusion concerning your previous request, but I am not vary familiar with the rules and terminology in this matter.

To restate your position, you are accepting that my Motion to Amend the Complaint is valid under rule FRCP Rule 15(a)(1)(b) (as stated in the Motion itself, your reference to Rule 15(a)(1)(2) appears to be a simple typo).

However, you are likely to contest the Motion to Amend the Complaint as a minimum with a request for an extension in the time to file an Answer in this matter from the 14 days specified in FRCP Rule 12(a)4)(A) to 30 days.

I have discussed this matter with my wife, Air, and we decided that we would agree to …
[********* Redacted by Plaintiffs in accordance with FRCP Rule 408, 18 Apr 2024, *********]

If you and USCIS can agree to the above relief, we will agree to allowing you and the other Defendants to Answer the Amended Complaint in 30 days after the resolution of your Motion to Dismiss (assuming your motion is denied).

In any case, we will continue to argue for the other relief in our Motion for Partial Summary Judgment. We also recognize that this is a complex case and understand that 30 days is appropriate for a proper response to all the facets of this complex Complaint.

For your convenience I am attaching:

- AirGCexp20201113redacted.pdf, a redacted copy of Air's green card which 'expired' on 13 Nov 2020.
- In Doc 18-6 there is a USCIS green card extension letter which 'expired' on 13 Nov 2022 (referred to in Complaint (Doc 11-1) para 147 and 152 when Air was stranded in Thailand).
- RCi-551exp20240102.pdf Copy of temporary I-551 Stamp in passport 'evidencing permanent residency' which lists expiration date of 2 Jan 2024. An interesting legal question is whether this I-551 expired on 31 Jan 2023 when the I-751 was adjudicated (no longer pending).

As all documents showing Air's legal status have 'expired', we are concerned about recent threats to deport millions of 'illegals' on 'Day One' as well as the ambiguities under the pending Texas SB4 law and the deportation of illegal aliens.

If you can not agree to our requested relief, in our opposition to any extension in the time for you to file an Answer, those documents will be relied on in arguing that USCIS must provide proof of Air's legal permanent resident status as soon as possible. Of course if our Motion for Partial Summary Judgment is granted in its

> entirety, then we have no problem with your request for 30 days to Answer the Amended Complaint. ... So many moving parts. :-(
>
> ...
>
> Sorry for the previous confusion in this matter. I hope that you and USCIS will be able to agree to our requirements so that we can shift to a more leisurely pace in arguing the numerous interesting legal issues in this complex case.
>
> Thanks for your attention in this matter and wishing you best,
> Brian (and Air)
>
> Attached Files:
> D:\brian\personal\Statmnt23\DoJcmpInt\AirGCexp20201113redacted.pdf
> D:\brian\personal\Statmnt23\DoJcmpInt\RCi-551exp20240102.pdf

On Tue, Apr 2, 2024 at 6:40 PM Brian Carr <carrbp@gmail.com> wrote:

Thanks for confirming our discussion. The main document I mentioned in our discussions is Doc10-5I797forMSC2091582908-ioe9752855294.pdf (or just Doc10-5 in the record). That was the approval of both the I-751 and N-400. That document is a little dog eared, but the text of interest is:

> We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship. If you have questions regarding this process, please contact the USCIS contact center at 800-375-5283.

The later denial is Doc10-10USCISdenyN400-20231013.pdf. Intervening documents of relevance in the record are 10-6, 10-7, and 10-8.

Of course I would like to have this matter resolved as soon as possible. I propose a compromise of a 21 day extension as settlements work faster / better than litigation. To be clear, I will consent to a 21 day extension but oppose a 30 extension.

I believe that I already submitted a Motion to Amend Complaint to adopt Doc 18-1 as the Amended Complaint. If you would like you can notify the court that I have agreed to an extension to 21 days from today's date for your response to that

motion. I think the Motion for Partial Summary Judgment stands on its own and has its own required response date (21 days from submission).

Thanks again,

Brian

On 4/2/2024 1:59 PM, Padis, George (USATXN) wrote:

As discussed, the government consents in writing to the filing of an amended complaint. Under Rule 15(a)(1)(2), you can go ahead and file the amended complaint.

Please let me know if you oppose an extension of the deadline to respond to the amended complaint from 14 days to 30.

Thanks,

George

George M. Padis

Assistant U.S. Attorney

(214) 659-8645

From: Brian Carr <carrbp@gmail.com>
Sent: Tuesday, April 2, 2024 9:21 AM
To: Padis, George (USATXN) <GPadis@usa.doj.gov>
Subject: Re: [EXTERNAL] Re: Carr v. United States, No. 3:23-cv-2875-S (N.D. Texas)

Hi George,

My wife (nickname Air) and I are headed out for errands this morning, but after lunch I should be available for most any time. Let me know if there is any time this afternoon that works for you.

Wishing you the best,

Brian

On 4/2/2024 9:11 AM, Padis, George (USATXN) wrote:

Brian,

Do you have time today for a call? I am trying to get an understanding of your claims, which I found hard to decipher from your complaint. It may make sense for the government to consent to the filing of an amended complaint (and thereby avoid some unnecessary motion practice).

Please let me know a few times that work.

Thanks,

George

George M. Padis

Assistant U.S. Attorney

(214) 659-8645

From: Brian Carr <carrbp@gmail.com>
Sent: Monday, March 4, 2024 1:09 PM
To: Padis, George (USATXN) <GPadis@usa.doj.gov>
Subject: Re: [EXTERNAL] Re: Carr v. United States, No. 3:23-cv-2875-S (N.D. Texas)

Mr. Padis,

Thanks for ensuring a timely response in this matter. To be precise, Mr. Barr, Mr. Joubert, the receptionist, and I were present at the time of service. Mr. Joubert handed the packet to Mr. Barr and Mr. Barr handed us (myself) a copy of his business card. As Mr. Joubert and I were discussing the completion of the affirmation of service, Mr. Barr walked to the receptionist window and slid the packet through the slot at the bottom (so he did not actually hand the packet to her as I misstated previously). At that time I overheard some discussion of what she should do with the packet. It is also my recollection that the receptionist was a person of color, possibly with some African heritage and a little heavy.

There almost certainly were videos of the service (given the security of the office) but I am not sure if the videos would be retained or be easily accessible. I strive to be accurate in all

things but would be interested to see whether my recollection of events is accurate.

I hope you find the more complete and accurate description of service helpful. Wishing you the best,

Brian

On 3/4/2024 9:50 AM, Padis, George (USATXN) wrote:

Mr. Carr,

Thank you for your response. We will get our response to your complaint on file in a timely manner. Do you know who / Was it you who handed the packet to the receptionist and observed the conversation between the receptionist and Mr. Barr?

Thanks again,

George

George M. Padis
Assistant U.S. Attorney
(214) 659-8645

From: Brian Carr <carrbp@gmail.com>
Sent: Sunday, March 3, 2024 9:56 PM
To: Padis, George (USATXN) <GPadis@usa.doj.gov>
Subject: [EXTERNAL] Re: Carr v. United States, No. 3:23-cv-2875-S (N.D. Texas)

Dear Mr. Padis,

Thank you for contacting me about your lack of access to the Summons and Complaint in this matter (and the lack of record of service). I am sorry that your office seems to have misplaced the copies of the Summons and Complaints which were correctly served on 09 Jan 2024.

I have attached a copy of the service document as Doc10service.pdf for your convenience which was retrieved from ECF as Doc 10.

Service to the US Attorney for the Northern District of Texas was completed on the morning of 9 Jan 2024 by handing Brian Barr, CPA, the packet of summons and complaint who then handed the packet to the receptionist who had asked Mr. Barr to come out and accept service. Mr. Barr then advised the receptionist about what to do with the packet. I

am not sure what happened after that but you should be able to talk with Mr. Barr and the receptionist that morning to find where the papers went. It is also possible the receptionist was a temp as she did not seem familiar with the procedure for accepting the process

Further, in accordance with FRCP 4(i)(1)(A), as the US Attorney was not actually available for service, a copy of the summons and complaint were sent by certified mail to the US Attorney with tracking number 9589071052701312288855 and arrived at 12:21PM 12 Jan 2024. Perhaps your mail room can track that copy of the summons and complaint as well.

Of course I find working with paper copies most tedious and so recommend you access Doc 11-1 which is an electronic copy of the Complaint. I attempted to share that document with you directly but as your email is not registered with google for google drive access, that wasn't possible. However, I shared the folder with all the ECF files to date as 'eDocket' on Google Drive and the Complaint itself is an exhibit to Doc 11, Doc 11-1 which is available on Google Drive for no fee.

I am sorry that you were brought into this so late, but I believe that as service was completed on 9 Jan 2024, you have until 11 Mar 2024 to respond. I appreciate that this is not a lot of time (only a week really).

You might consider asking for an extension to answer in this matter as the Summons and Complaint seem to have been misdirected in your office, but I would oppose any extension unless some relief was provided for my wife.

Please understand my wife and I were most distraught after USCIS had unlawfully left my wife stranded in Thailand in late 2022, unable to return to take her citizenship test. You should also understand that for older Thai people who were not exposed to English during their formative years (i.e. she came from a poor family, a share cropper farmer with nine kids) the English and Civics test is incredibly hard.

When she finally was able to return to the US and take the test on 30 Jan 2023 we were crushed when we were told informally that not only did she fail the citizenship tests, they also would not approve her I-751 application removing the

conditions on her 'green card' (which had left her stranded in Thailand in the first place).

While she had met all the statutory requirements to continue her permanent residence, USCIS would not provide her with any documentation to allow her to work and travel freely. Of course that is the unlawful part as explained in the Complaint.

However, a week later we were elated when we received formal notice that both her I-751 and N-400 were approved (see Doc10 exhibit Doc10-5 called I797forMSC2091582908-ioe9752855294.pdf in the complaint and previous emails to DoJ and the Attorney General. That is a pretty dog eared copy that is hard to read, but the important text is in paragraph 163 of the Complaint.

Basically USCIS was not going to give her a new green card as she was instead going to get her citizenship. We were so relieved.
However, that formal notice seems to have been a ruse to deny her a new green card while also not allowing her to take the citizenship test again, possibly as retribution for my numerous complaints to the IG, my US Representative and numerous other parties about USCIS's unlawful denial of my wife's freedom to work and travel freely.

USCIS completed the charade on 14 Oct 2023 when they denied her N-400 citizenship application for failure to appear through what was clearly retaliation (Complaint paragraphs 185-209).

This has left my wife without any documentation of her permanent resident status or ability to work and travel freely. Her 'green card' has an expiration date of 13 Nov 2020 and the letter approving her I-751 and 'removing conditions' is hardly convincing to employers or, local law enforcement in the event Governor Abbot borrows from Trump's promise to send the National Guard from Red states to Blue states to deport 'illegal' aliens, perhaps Abbot will send the Texas National Guard into Blue counties (like Dallas) to deport 'illegal' aliens.

Would my wife be able to explain to National Guardsmen from West Texas that her 'green card' was still valid as USCIS had ‘removed the conditions’?

So, I would be happy to join in a motion to extend the deadline to answer this complaint (which is certainly quite complex) if it included a joint motion for summary judgment to have my wife take the 'Oath of Allegiance' with the judge or magistrate in this matter and an order directing that USCIS promptly provide my wife with a 'Certificate of Naturalization' as promised over a year ago.

Thanks again for contacting me. I hope that we can agree to some resolution to the current predicament. Wishing you all the best,
Brian Carr

P.S. If [you] register your appearance in this matter with ECF, you will automatically get notice of the other supporting documents which I expect to file in the days ahead.

On 3/1/2024 3:56 PM, Padis, George (USATXN) wrote:

Dear Mr. Carr:

I am the Deputy Civil Chief for the Northern District of Texas. I have been made aware of the above-captioned civil action, but the U.S. Attorney's Office has no record of having been served in this case. *See* Fed. R. Civ. P. 4(*i*)(1)(A) (requiring that among other things a party must deliver a copy of the summons and the complaint to the United States attorney).

If you reply with a summons and a copy of the complaint, I will email you a letter confirming that I am accepting service on behalf of the U.S. Attorney. Please note that my authority to accept service is limited to the United States attorney, and I am not authorized to accept service for the Attorney General of the United States.

Truly yours,
George (Deputy Civil Chief, USAO NDTX)

George M. Padis

Assistant U.S. Attorney
The U.S. Attorney's Office for the Northern District of Texas
1100 Commerce St., Third Floor

Dallas, TX 75242-1699
Direct line: (214) 659-8645
george.padis@usdoj.gov

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 Amended COMPLAINT

The Plaintiffs, Brian P. Carr (hereafter referred to as Mr. Carr), Rueangrong Carr (hereafter referred to as Mrs. Carr) and Buakhao Von Kramer (hereafter Mrs. Von Kramer) appear pro se in this matter, as and for their complaint allege the following:

Introduction

1. This matter concerns the Defendants falsification of government records and, potentially, obstruction of justice through failure to report or correct federal crimes, and the Plaintiffs' Fifth Amendment right to due process of law.

Due Process Requirements

2. Almost all of the counts raised in this matter center around due process. Since the 70's the U.S. Supreme Court has expounded on the requirements of Due Process for administrative procedures such that it is not an obscure arcane right, but rather a central pillar of how the U.S. government must act when dealing with individuals. There is an excellent overview of 'due process' in Cornell Law LII Procedural Due Process which lists the ten key elements required for due process as:

   1. An unbiased tribunal.
   2. Notice of the proposed action and the grounds asserted for it.

3. Opportunity to present reasons why the proposed action should not be taken.
4. The right to present evidence, including the right to call witnesses.
5. The right to know opposing evidence.
6. The right to cross-examine adverse witnesses.
7. A decision based exclusively on the evidence presented.
8. Opportunity to be represented by counsel.
9. Requirement that the tribunal prepare a record of the evidence presented.
10. Requirement that the tribunal prepare written findings of fact and reasons for its decision

These elements are derived from Judge Henry Friendly's article titled "Some Kind of Hearing".

USPS Falsifies Delivery Record

3. In April of 2021, Mr. Carr purchased a guaranteed delivery Express Mail label from the United States Postal Service (hereafter USPS). The package was delivered late but a postal employee falsified the delivery record to indicate that package was delivered on time. As a result, Mr. Carr was unable to get the guaranteed refund of $26.35. Mr. Carr appealed administratively with USPS and later with USPS Office of the Inspector General (hereafter USPS OIG), the Council of the Inspectors General on Integrity and Efficiency (hereafter CIGIE), USPS Board of Governors, and Department of Justice (hereafter DoJ) to correct the falsified documents and get the requested refund. No refund has been received.

Department of State Denies Non-Immigrant Visa Without Due Process

4. In 2018 and 2019 Mrs. Carr and her sister, Mrs. Von Kramer, applied for non-immigrant visas which were denied by the Department of State (hereafter DoS) through the Bureau of Consular Affairs (hereafter BCA) without due process. In particular, the denial was a form letter with no reference to the actual evidence and which contradicted the verbal explanations of the denial by the interviewer. This could be construed as falsification of government records through omission of required information. Further, in each case the denial was based on a rationale that was not supported by the evidence or law in the matter. As there was no administrative appeal available, Mr. Carr sought correction of the injustice through the DoS OIG. CIGIE, and DoJ. Later non-immigrant visas for Mrs. Carr and Mrs. Von Kramer were

approved in 2022 but both sisters suffered financial harm from the delay in receipt of the visas.

Mrs. Von Kramer Receives Survivor Benefits

5. Mrs. Von Kramer is the widow of a deceased American veteran and was able to visit the U.S. in 2022 and commenced receiving survivors' benefits from Social Security in May of 2023, but she must return to the U.S. every six months as she was not able to establish her 'lawful presence' in the U.S. in 2019, 2020, and 2021 as she planned.

USCIS Denies Citizenship Application Based on Falsified Documents

6. On 31 Jan 2023 as a result of a joint interview held on 30 Jan 2023 for a permanent green card (I-751) and for citizenship (N-400), the United States Citizenship and Immigration Service (USCIS) approved Mrs. Carr's I-751 application for a permanent green card while not actually providing the green card as her N-400 citizenship application was also approved.
7. However, instead promptly providing Mrs. Carr with a Certificate of Naturalization, on 01 Sep 2023, USCIS updated her N-400 record to note that the interview of 30 Jan 2023 was canceled due to unforeseen circumstances.
8. Mr. Carr complained to USCIS, the Department of Homeland Security (DHS) OIG and DoJ of falsified records (the interview had been completed and the N-400 had been approved). Even so, USCIS scheduled a 'second' N-400 interview for 11 Oct 2023, a date when USCIS had been informed that Mrs. Carr would be out of the country. Mr. and Mrs. Carr made numerous efforts to reschedule the interview which were refused. USCIS denied Mrs. Carr's N-400 application on 14 Oct 2023 for 'failure to appear'. Mr. Carr has since complained to DHS OIG of 'whistleblower' retaliation for his previous reports of federal crimes and other malfeasance by USCIS.

Jurisdiction and Venue

9. This Court has subject matter jurisdiction over this action pursuant to 28 USC § 1331 and 28 USC § 1367, 42 USC Ch. 21B and the Administrative Procedure Act (APA, 5 USC §§ 551–559, 5 USC §702), as a case arising under 18 USC § 1001, 18 USC § 1505, 18 USC §

1510, 18 USC § 201, 18 USC Ch 96 (RICO), 18 USC § 1038 18 USC § 10, 5a USC IG ACT 1978, 39 USC, 8 USC Ch 12, 8 CFR § 216.4, 5 USC § 2302(b)(9)(D), 8 USC § 1421(c) as well as the Fifth Amendment of the U.S. Constitution right to due process.

10. Venue is proper in this district pursuant to 28 USC § 1391 (b) because a substantial part of the events or omissions giving rise to the claim have occurred or will occur in this district and Plaintiffs Mr. and Mrs. Carr reside in this District and Mrs. Von Kramer, as a foreign national, receives her U.S. mail care of Mr. Carr.

11. Mr. Brian P. Carr (hereafter Mr. Carr) is a U.S. citizen and resident of Dallas County in the State of Texas and a Plaintiff appearing Pro Se in this matter. Mr. Carr's contact information is:

Brian P. Carr
1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

12. Mrs. Rueangrong Carr (hereafter Mrs. Carr) is a U.S. Permanent Resident and resident of Dallas County in the State of Texas and a Plaintiff appearing Pro Se in this matter. Mr. Carr is Mrs. Carr's spouse and to the degree that it is legally permissible, Mr. Carr will represent Mrs. Carr. Mrs. Carr's contact information is:

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

13. Mrs. Buakhao Von Kramer (hereafter Mrs. Von Kramer) is a citizen and resident of Thailand with a U.S. B-1 / B-2 non immigrant visa (business / tourist). Mrs. Von Kramer's U.S. mailing address is care of Mr. Carr, a resident of Dallas County in the State of Texas. Mrs.Von Kramer is a Plaintiff appearing Pro Se in this matter. Mrs. Von Kramer is the widow of Nikolaus Von Kramer, a German National, U.S. Army veteran (pre 1968), U.S. citizen, married to Mrs. Von Kramer on 12 January 2006, and died 26 April 2014. Mrs. Von Kramer is also Mrs. Carr's sister. Mrs. Von Kramer has also requested that Mr. Carr represent Mrs. Von Kramer to the degree that it is legally permissible. Mrs. Von Kramer's

contact information is:

Buakhao Von Kramer
c/o Brian Carr
1201 Brady Dr
Irving, TX 75061
carrbp@gmail.com
518-227-0129

14. Mrs. Von Kramer's legal residence is:

105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140
THAILAND

15. The United States government is the primary Defendant in this matter and is represented by the U.S. Attorney for the Northern District of Texas in her professional capacity with contact information:

United States Attorney
Northern District of Texas
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699

16. The U.S. Department of Justice (hereafter DoJ) is an agency of the United States, a Defendant in this matter and is represented by the Attorney General in his professional capacity with contact information:

Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

17. The United States Postal Service (hereafter USPS) is an agency of the United States, a Defendant in this matter and is represented by the Postmaster General in his professional capacity with contact information:

Postmaster General
USPS Headquarters
475 L'Enfant Plaza SW
Washington DC 20260-0010

18. The USPS Office of the Inspector General (hereafter OIG) is an agency of the United States, a Defendant in this matter and is represented by the USPS Inspector General in her

professional capacity with contact information:

USPS Inspector General
1735 North Lynn Street
Arlington, VA 22209-2005

19. The USPS Board of Governors (BoG) is the governing body of the USPS, an agency of the United States. The USPS BoG is a Defendant in this matter and is represented by the Chairman in his professional capacity with contact information:

USPS Board of Governors Chairman
475 L'Enfant Plaza SW
Washington DC 20260-0010

20. The U.S. Department of State (hereafter DoS) is an agency of the United States, a Defendant in this matter and is represented by the Secretary of State in his professional capacity 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

21. The DoS OIG is an agency of the United States, a Defendant in this matter and is represented by the DoS Inspector General in her professional capacity with contact information:

U.S. Department of State Inspector General
1700 North Moore Street (SA-39)
Arlington, VA 22209

22. The Council of the Inspectors General on Integrity and Efficiency (hereafter CIGIE) is an agency of the United States, a Defendant in this matter and is represented by the Executive Director in his professional capacity with contact information:

Executive Director
Council of the Inspectors General on Integrity and Efficiency
1750 H Street NW Suite 400
Washington, DC 20006

23. The U.S. Citizenship and Immigration Services (hereafter USCIS) is an agency of the United States, a Defendant in this matter and is represented by the USCIS Director in her professional capacity with contact information:

USCIS Director
20 Massachusetts Avenue, NW
Washington, DC 20529

24. The Department of Homeland Security (hereafter DHS) OIG is an agency of the United States which oversees USCIS, a Defendant in this matter and is represented by the DHS Inspector General in his professional capacity with contact information:

Department of Homeland Security Inspector General
245 Murray Dr.; Building 410;
Washington, DC 20528

25. The Social Security Administration (hereafter SSA) is an agency of the United States, a Defendant in this matter and is represented by the SSA Commissioner in her professional capacity with contact information:

Social Security Administration Commissioner
1300 D. Street SW
Washington, D.C. 20024

Count 1

USPS Falsifies Delivery Records, Refuses Credit

26. The Plaintiffs repeat and re-allege paragraphs 1 through 25, as if fully set forth herein.
27. On April 9, 2021 Mr. Carr purchased an 'Overnight Express' click'n'ship for $26.35 with tracking number 9470103699300057573507 with guaranteed delivery to return his passport from the Thai embassy to his home address. The Thai embassy mailed his passport back and the shipment was accepted by USPS at 8:46PM on 13 April 2021 with guaranteed delivery by 12PM on 15 April 2021. This was longer than overnight as it was received late in the day.
28. However, the package did not arrive at the Irving Post Office until 11:18 AM 15 April 2021 and was 'out for delivery' at 11:29 AM. It was scanned as delivered at 11:35 while the driver was almost certainly still at the Post Office, a common practice for improper 'Stop the Clock' scans.
29. It is virtually impossible to make the drive from the Post Office to Mr. Carr's house in six minutes. Note that while improper 'Stop the Clock' scans have a relatively benign name, they are, in fact, crimes of falsifying government records as per 18 U.S. Code Section 1001 (a)

(1).

30. Mr. Carr was anxious to get his passport and checked for the package several times on the morning of 15 April, 2021. When Mr. Carr received notice of the delivery at 11:35 AM via email, both Mr. Carr and Mrs. Carr went out to look for the package but could not find it.
31. Mr. Carr also called the Post Office about the missing package and was advised to not worry as there had been vehicle problems that morning and that his package would arrive soon. Mr. Carr asked if the record of delivery time would be corrected but received a non-committal answer. Mr. Carr also took a time stamped photo of the front porch area with no package present after it had been recorded as delivered.
32. At 12:30PM the package was in Mr. Carr's mail box, delivered after the guaranteed delivery time (contrary to the improper 'Stop the Clock' delivery scan).
33. That afternoon Mr. Carr initiated an online request for a refund (refund request number 6006595) which was denied in minutes as the package was falsely reported as delivered on time.
34. Two weeks later Mr. Carr was permitted to appeal that arbitrary denial and explained about the illegal 'Stop the Clock' scan and on 5 May 2021 the status of the refund was changed to 'Dispute Paid'. However, the credit card which Mr. Carr used for the online 'click n ship' never posted the refund.
35. On 9 June, 2021, Mr. Scott Hooper, District Manager, Dallas Customer Service and Sales, 951 W. Bethel Rd., Coppel, Texas, 75099-9998 replied to Mr. Carr's queries about the falsified delivery time via Congressman Veasey stating that Mr. Rodney Malone, Postmaster, Irving, TX found that "the guaranteed date and time for delivery of the Priority Express Mail was April 15, 2031, by noon. Mr. Malone retrieved data from the carrier's scanner and was able to confirm the package was scanned delivered on April 15, 2021 at 11:35 a.m.. Mr. Malone states the carrier has been trained in the proper disposition and scanning of Priority Express Mail. The signature was waived; therefore, allowing delivery directly to Mr. Carr's mailbox. Unfortunately, to be able to correct a scan in our system, it must be within the previous 21 calendar days."
36. Mr. Carr contacted USPS customer service on numerous occasions as there had not been any refund but was only told to wait longer for the refund even though he had already waited far longer than the suggested waiting time.

37. When Mr. Carr complained that the refund was due many months ago, the response was just a generic statement about submitting a new refund request (which would be denied as it was too late to initiate a new refund request). See service request 28670242 on 19 July 2021.
38. On 3 September 2021, Ms. Scarpelli of the USPS responded to Congressman Veasey stating that Mr. Carr's refund was paid on 5 May 2021 but on further investigation by Mr. Carr there were no details of the refund.
39. After Mr. Carr made numerous attempts to find the transaction ID of the credit to his bank it became apparent that Ms. Scarpelli had been misled by the numerous falsified documents which resulted from the improper 'stop the clock' scan of his package and faulty USPS business processes to issue credits when a falsified delivery record indicates an 'on time' delivery.
40. It appears that the Accounting Service Center approved the refund and passed it off to Customer Service to make the actual refund. However, because the tracking record had a falsified delivery time via the improper 'Stop the Clock' scan which was not corrected by management (a potential crime itself), customer service could not give the refund but referred Mr. Carr back to accounting services or asked Mr. Carr to start a new claim for a refund (which was not permitted at that time due to the delay).
41. There are now numerous documents which are false due to the original falsified delivery time and thousands of others as documented by USPS OIG, to include quality reports to Congress and the U.S. public, profitability reports for individual post offices and regions, and bonuses paid to management of said post offices and regions. This is a prime example of how one uncorrected falsified document multiplies until it becomes hard to find any truthful and correct documents.

Count 2

USPS OIG Refuses to Investigate or Report Federal Crimes

42. The Plaintiffs repeat and re-allege paragraphs 1 through 41, as if fully set forth herein.

43. Mr. Carr visited the USPS OIG web hotline which stated "the USPS OIG Hotline CANNOT assist you with daily mail delivery and tracking problems" but also "the USPS OIG Hotline CAN assist you with ... Employee Misconduct".

44. Mr. Carr made several submissions to the Hotline which includes Submission 167800 on 18 May 2021, Submission 170675 on 27 May 2021, Submission 184761 on 19 July 2021, and Submission 209111 on 22 October 2021. However, even though he cited specific federal crimes of falsifying government records, defrauding postal customers and USPS management uniformly unable to make any corrections, in all cases the complaint was simply referred back to USPS local management and with no correction or action taken. However, each complaint was closed as successfully resolved even though no corrections or actions were taken.
45. On 1 August 2021 Mr. Carr wrote directly to the USPS Inspector General inquiring as to the origin of the policy preventing any USPS OIG investigation of certain crimes of falsifying government records, e.g. improper 'Stop the Clock' scans of packages as delivered prior to actual delivery and, amongst other things, defrauding postal customers.
46. This letter seems to have been referred back to the USPS OIG Hotline where they suggested that Mr. Carr would need to file a Freedom of Information Act request to get the information he required.
47. Mr. Carr submitted the FOIA request on 19 October 2021 and received a statement from Tanya Hefley stating "However, we were advised, during processing, the OIG Hotline determines the best routing (OIG, Inspection Service, Postal Service, other agency, etc.) for an allegation on a case-by-case basis."
48. A 2017 USPS OIG audit found there were over 1.9 million improper 'stop the clock' scans out of the 25.5 millions which were analyzed. The result was that over 7 percent of the analyzed scans were improper. Extending this to the over 4 billion scanned packages during 2017, as many as 280 million of such scans defrauded customers by these improper scans preventing 'guaranteed delivery' refunds. Further, the USPS OIG listed over about 1.4 million customer complaints in FY 2017 related to delivery.
49. In a 2020 Blog report by USPS OIG, "Specifically, 38 percent of the more than 1,100 packages that were selected at these units and that were in the facility before the carriers arrived for the day had been improperly scanned."
50. When Mr. Carr reported the details of the falsified delivery time to OIG case workers, it was not only ‘likely’ that a federal crime had been committed, but,in light of USPS OIG reports

on the problem, it was ‘beyond reasonable doubt.’

51. However, the reality is that improper 'Stop the Clock' scans are federal crimes and are not ever referred to the Attorney General as required by statute 5a USC IG Act 1978 Section 4.
52. On 1 August 2021 Mr. Carr wrote to the USPS IG directly complaining of an apparent illegal order preventing USPS OIG case workers from reporting known federal crimes (the well documented improper ‘stop the clock scans’ (a.k.a. falsified government records) to the Attorney General as required explicitly by the INSPECTOR GENERAL ACT OF 1978 which states in part that the 'Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law'.
53. The USPS IG made no response but via U.S. Representative Marc Veasey, Ms. Kelly Delaney, Senior Attorney, Government Relations, USPS OIG, replied on 7 June 2022 in USPSoigRsps.pdf (an electronic document already sent to the relevant Defendants) and stated

> The OIG conducts investigations to determine whether evidence exists of misconduct or criminal activity by postal employees and, when appropriate, refers such matters for criminal prosecution. When employee conduct does not meet the threshold for prosecution, we typically refer such matters to Postal Service management officials for their determination of possible administrative action. … We did not identify a violation that warranted referral for criminal prosecution.

54. Thus, the OIG is claiming the authority to decide which cases should be prosecuted while it is clear from 1978 IG Statute that Congress intended that the decision to prosecute is reserved solely for the Attorney General (or the DoJ realistically).
55. It is apparent that the USPS OIG has decided to allow the USPS to commit certain federal crimes with impunity thereby defrauding thousands of postal customers each year.
56. On 3 August 2022, Mr. Carr wrote to the USPS Board of Governors with USPSbdRqst.pdf (previously provided to relevant Defendants) complaining of apparent illegal orders preventing the USPS IG from properly reporting federal crimes to the DoJ as required by statute, possibly a crime itself of obstruction of justice.
57. There was no response from USPS BoG but on 14 Dec 2022 from Andrew Jones, USPS

Government Relations Representative replied via Representative Veasey with BrianCarr.USPSreply.12-12-22.pdf (previously provided to relevant Defendants) which states 'the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is responsible for investigating complaints about an Inspector General. CIGIE conducts its investigations independently, and it has requested that all inquiries related to its functional responsibilities be referred to CIGIE for reply.' It claims that the complaint was forwarded to CIGIE but no response was forthcoming.

58. There are anecdotal reports of widespread falsification of records of all types within USPS which is the likely result of USPS OIG unlawfully granting USPS the ability to falsify delivery records with impunity.

Count 3

DoS Denies Mrs. Carr Visa without Due Process

59. The Plaintiffs repeat and re-allege paragraphs 1 through 58, as if fully set forth herein.
60. Mr. and Mrs. Carr had married on 23 June 2018 in Thailand and applied for an immigration visa via an I-130 petition submitted to USCIS on 17 July 2018.
61. However, they learned that the I-130 petition normally takes over a year to be processed. They were concerned that his mother was over 90 years old and her health was failing. It was unlikely that she would survive for more than a year. The couple wanted Mrs. Carr to be able to meet Mr. Carr's mother so they decided to apply for a non-immigration visa.
62. As a result, Mr. Carr completed the application for a non-immigration visa DS-160 for Mrs. Carr with the $160 fee paid by Mr. Carr with his American credit card.
63. Mr. Carr requested that he be permitted to attend the interview as Mrs. Carr representative as he was more familiar with his mom's health and his finances. However, he was told that was not possible due to security and space concerns at the consulate.
64. As an alternative, Mr. Carr completed an I-864 affidavit of support showing assets of $2,986,370.28 over 90% of which were in IRA accounts which could not be moved outside of the U.S. without complex and expensive tax implications. He also attached statements supporting those assets and an explanation that the couple had sufficient assets to live wherever they chose and that it would be incredibly stupid for them to overstay their visa as

it would preclude freedom to travel in the future. They were not stupid people.

65. On 29 Aug 2018 Mrs. Carr had an interview for a B-1 / B-2 non immigrant visa (business / tourist) at the Chiang Mai Consulate in Thailand with appointment AA00843QZW.
66. The interviewer did not review any of the papers which Mr. Carr had prepared but instead did a cursory review of Mrs. Carr visa application record and noted the I-130 application to immigrate. The interviewer then informed Mrs. Carr that she could not get a tourist visa because she had an outstanding immigration visa application. The only way she could get a tourist visa would be to rescind her immigration application first and then reapply for a tourist visa. This deeply upset Mrs. Carr, presenting her with a sort of Sophie's choice dilemma. Needless to say, the interviewer's verbal claim was totally contrary to the published requirements and the law in these matters.
67. The actual denial letter had no references to any evidence presented or reviewed but simply cited section 214(b) [of the INA] and 'you did not overcome the presumption of immigrant intent, required by law, by sufficiently demonstrating that you have strong ties to your home country that will compel you to leave the United States at the end of your temporary stay'.
68. Mr. and Mrs. Carr were unlawfully denied their ability to travel freely due to denial of Mrs. Carr's visa application.
69. Mr. Carr complained to the DoS OIG with complaint H20190052 citing the lack of due process through the denial of the right to representation (Mr. Carr could not attend the interview), the denial of the opportunity for Mrs. Carr to present evidence, and the denial of the right to a written decision based solely on the law and evidence presented. Mr. Carr explained that the requirement that Mrs. Carr rescind her immigration application was not supported by the law and, as such. was unlawful.
70. On 10 October 2018 received a response via the DoS OIG in the form of a PDF file which
71. has been named DoSig2018rsps.pdf signed by Cristin Heinbeck, Outreach and Inquiries Division, Visa Services of DoS which stated in part:

> there is no provision in U.S. law that specifically precludes issuance of a nonimmigrant visa to an applicant with a pending immigrant visa case. However, such an applicant must still demonstrate that he or she has clear ties to a continuing life overseas and evidence that he or she intends only a temporary visit to the United States. Such evidence is required to overcome the provisions of

section 214(b) of the INA.

72. The DoS did not address the denial of the right to representation and the right to present evidence. Of course an applicant will not be able to overcome the provisions of section 214(b) if they are not permitted to present the evidence which is required by section 214(b).
73. As DoS OIG improperly abdicated its responsibility to oversee BCA and referred these serious violations of the Fifth Amendment rights of Due Process to BCA, Mr. Carr continued his efforts a just and lawful decision by writing several emails to the Chiang Mai Consulate General.
74. Mr. Carr was able to persuade USCIS to expedite the I-130 immigration petition process and it was approved within four months (likely a record for such petitions in Thailand at that time).
75. Mr. and Mrs. Carr were also subjected to unwarranted stress in getting the I-130 so quickly as was the staff at USCIS who had to deal with the constant concerns raised by Mr. Carr about every delay.
76. Mrs. Carr was able to meet Mr. Carr's mother and that was a source of joy for all parties. Mr. Carr's mother died within a week of their arrival so the desire to visit promptly was well founded.
77. Mr. and Mrs. Carr returned to Thailand after a roughly three month visit to the United States (so would not have 'overstayed' a tourist visa in any case).
78. However, four years later USCIS failed in meeting its statutory mandate to allow Mrs. Carr to work and travel freely and left Mrs. Carr stranded in Thailand, unable to return to the U.S..
79. As a result, Mrs. Carr had to make a second application for a tourist visa with DoS BCA with the interview on 12 Dec 2022 at the Chiang Mai Consulate with appointment AA00BCSFIT.
80. Mr. Carr sent an explanatory email to the Chiang Mai Consulate General citing the previous letter from DoS stating that Mrs. Carr's previous visa application was denied unlawfully and explaining that USCIS had unlawfully left Mrs. Carr stranded in Thailand, attaching the supporting documents for this conclusion. Mr. Carr asked that an adequately trained interviewer be assigned to review Mrs. Carr's visa application so that there would not be further unjust and unlawful decisions.

81. The Consulate General responded that all interviewers were properly trained and made their decisions independently of any input from the Consulate General but it is possible that an addendum was made to Mrs. Carr's file explaining the sensitivity of the application.
82. Mrs. Carr's second visa application was approved with no substantial input from Mrs. Carr, only an online review of the status of the application.
83. The cost of this second visa application fee was $160 which Mr. Carr attributes half to USCIS for leaving Mrs. Carr stranded in Thailand and half to DoS BCA for unlawfully denying the first visa application.

Count 4

DoS Denies Mrs. Von Kramer Visa without Due Process

84. The Plaintiffs repeat and re-allege paragraphs 1 through 83, as if fully set forth herein.
85. Mrs. Von Kramer is the widow of an American veteran who died on 26 April 2014 (born 19 Nov 1944). Mrs. Von Kramer had promptly notified the U.S. embassy and Social Security of his death.
86. A member of the embassy staff had kindly mentioned to Mrs. Von Kramer that if she visited the U.S. regularly she could get survivor benefits from Social Security. She also explained that if Mrs. Von Kramer did not have friends or family in the U.S. it would be prohibitively expensive and not really possible.
87. As a result, after Mrs. Carr (her sister) had become a Permanent Resident of the U.S., Mrs. Von Kramer's younger daughter Yui Montira Moongram submitted a DS-160 visa application for Mrs. Von Kramer and paid the $160 fee. Her first interview was held on 9 Sep 2019 at the Chiang Mai consulate.
88. Mrs. Von Kramer asked that Mr. Carr attend the interview. Mr. Carr inquired again and was told that only the applicant was permitted in the consulate due to security and space constraints.
89. Mr. Carr helped Mrs. Von Kramer prepare an extensive folder of papers (more than an inch thick) to demonstrate her financial resources and ties to Thailand. It started with dual affirmations for Mr. Carr and Mrs. Von Kramer (affirmed under penalty of perjury) with descriptions of the other 'exhibits' which included:
    - Round trip tickets to the U.S. with the first flight on 13 Oct 2019 on the same flight to the

U.S. as Mr. and Mrs. Carr were taking and return flights for Mrs. Von Kramer after a 14 day stay (longer than the 1 day minimum requirement and shorter than the 30 day / full month maximum for a 'lawful presence' visit as described in the affirmations).

- An email from Mr. Carr inviting Mrs. Von Kramer to stay at their house during her visit to the U.S..
- Previously Mr. Carr had provided Mrs. Von Kramer with a statement from one of Mr. Carr's retirement accounts showing over $400,000 in assets (signed by Mr. Carr), but as this ran to over ten pages it was decided to not include it in the packet and rely on the substantial savings Mrs. Von Kramer demonstrated below. Instead the focus would be on the accommodations and opportunities for service and volunteering and other 'lawful presence' activities described in attachments to the invitation email
- A signed copy of Mr. Carr's passport ID page.
- A Thai bank statement showing a roughly $30,000 balance in Mrs. Von Kramer's name for the last six months (and certified at the bank).
- Deeds to Mrs. Von Kramer's houses in Chiang Mai and Chiang Rai with pictures of the houses (they are nice houses) along with her and her dogs, two daughters, and other sister and brother (in different pictures).
- Deeds to some of her farm land (prime rice paddies in Chiang Rai where Mrs. Von Kramer was born).
- Title to her car along with pictures of her with the car and family members.
- University diplomas for her two daughters.
- Documentation of her daughters' long term employment as a nurse in Chiang Mai and Network Engineer in Bangkok together with pay stubs.
- Documentation of her marriage to Mr. Von Kramer and his death.
- An explanation by Mr. Carr of the requirements to get social security survivors' benefits which include several 'lawful' visits to the U.S. over a five year period (and a stipulation that any overstays would disqualify her from any future benefits).

First Visa Application Denied

90. Surprisingly enough, the interviewer verbally denied Mrs. Von Kramer first visa application based on her not having firm travel plans. This was not based on any evidence as Mrs. Von Kramer had copies of her flight tickets and invitation as described above.

91. Further, the written denial letter was identical to the one Mrs. Carr had received with no references to any evidence presented or reviewed but simply cited section 214(b) and 'you did not overcome the presumption of immigrant intent, required by law, by sufficiently demonstrating that you have strong ties to your home country that will compel you to leave the United States at the end of your temporary stay'.
92. Mrs. Von Kramer apologized to Mr. Carr at the end of the interview for not presenting her case well, but the real problem was the denial of her right to Due Process and representation.
93. Mrs. Von Kramer was raised in a very poor family with nine children and a sharecropper father. She had a limited education of only four years before she needed to start working to help support the family.
94. As a girl from a poor family in Thailand she was taught to be polite and not speak out. She was not taught how to persuasively and clearly advocate for her position. However, Due Process is guaranteed to all persons who deal with the U.S. government and the right to representation is to insure that justice is not provided only to the rich and well educated.

Second Visa Application Denied

95. Mr. Carr completed a second DS-160 visa application for Mrs. Von Kramer with the interview on 30 Sep 2019 at the Chiang Mai Consulate (appointment AA009APPX1) and Mrs. Von Kramer paid the roughly $160 fee in Thai Baht.
96. Mrs. Von Kramer was able to mention to the interviewer that she wanted to apply for Social Security but the interviewer falsely claimed that she could have her social security claims handled in Manila in the Philippines and did not need a U.S. visa for that. It is unclear if the interviewer was ignorant of Social Security rules and regulation or maliciously told her false information.
97. Mrs. Von Kramer mentioned her contact at the embassy who had explained the U.S. requirements for non citizens to receive Social Security benefits overseas to Mrs. Von Kramer, but the interviewer declined to call her.
98. The interviewer also did not read Mr. Carr's extensive explanation of Social Security rules and regulations applicable to Mrs. Von Kramer but instead denied her application based on the false claim that she could get her social security benefits in the Philippines.
99. The written denial letter was the same form letter as before with no mention of the actual evidence considered.

Third Visa Application Denied

100. Mrs. Von Kramer again apologized to Mr. Carr for not presenting her case well as she had not given the interviewer the extensive documentation which Mr. Carr had compiled.
101. Mr. Carr completed a third DS-160 visa application for Mrs. Von Kramer with the interview on 9 Oct 2019 at the Chiang Mai Consulate (appointment AA009BKKHR) and Mrs. Von Kramer paid the roughly $160 fee in Thai Baht.
102. Before the interview, Mrs. Von Kramer practiced handing the packet of documentation to the interviewer as she had not done that in previous interviews. Mr. Carr also ensured that she called attention to his affirmation which explained all the other attachments as well as the requirements for Social Security benefits paid to foreign nationals overseas.
103. In the actual interview, Mrs. Von Kramer did hand the packet to the interviewer and he did spend a few seconds reading the first few pages, before closing the packet and informing Mrs. Von Kramer that she could not get a visa as she was a widow and too old with insufficient ties to Thailand. If she were to remarry she could reapply and might be eligible for a visa.
104. Of course this verbal rationale is completely contrary to the published rules and laws for non-immigration visas.
105. The written denial letter was the same form letter as before with no mention of the actual evidence considered.
106. It should be noted that if Mrs. Von Kramer were to remarry, she would no longer be eligible for SSA survivors' benefits, the central focus of the first few pages of Mr. Carr's affirmation.
107. It is also apparent that the DoS BCA has unpublished unwritten unlawful policies which are followed by interviewers such as:
    - Immigration applicants should not be granted tourist visas irrelevant of the actual facts and circumstances.
    - Widows of deceased American citizens (or more properly surviving spouses) should never be granted tourist / business visas irrelevant of the actual facts and circumstances

    The last item may be intended to reduce drains on the overburdened social security system which could be considered an admirable goal, but it is up to Congress to balance the complex trade offs of such matters.
108. Mrs. Von Kramer suffered financial loss due to these unlawful denials of visa applications to

include three application fees ($160 times 3, or $480) but also the flight tickets she was not able to use. Her round trip fare via Expedia on China Southern Airlines was $511.53 which was a bargain for non-refundable tickets, but Expedia was helpful in negotiating with China Southern Airlines due to the extenuating circumstances and was able to get a refund of the entire amount less the stated change fee of $134.

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.

Fourth Visa Application Approved

110. Mrs. Von Kramer made a fourth application for a tourist visa with DoS BCA with the interview on 12 Dec 2022 at the Chiang Mai Consulate with appointment AA00BCSFIT.

111. Mrs. Van Kramer was able to schedule her interview to be 15 minutes after Mrs. Carr time slot so that the two sisters went in together. It happened that Mrs. Carr was able to introduce Mrs. Von Kramer to Mrs. Von Kramer's interviewer with the statement 'She is my sister' before Mrs. Carr went on to her interview.

112. Mrs. Von Kramer was prepared with a more extensive folder of papers and had practiced presenting the papers with simple and brief explanations (e.g. "Here is an invitation letter from my brother-in-law, here is a picture of me with my sister and brother-in-law, here is a copy of my brother-in-law's passport page which he has signed for me, …")

113. However, before Mrs. Von Kramer could start her presentation, the interviewer asked if she would be traveling with others. She answered that she would be traveling with her sister and brother-in-law and the interviewer replied 'Let me look into the status of the other members of your group'. He then briefly looked at records on his computer before telling Mrs. Von Kramer that her visa application was approved.

114. It is possible that Mrs. Von Kramer's interviewer may have read any notes or concerns about Mrs. Carr's visa application made by the Chiang Mai Consulate General in response to Mr. Carr's previous email.

SSA Conditionally Grants Survivors' Benefits

115. As a result, Mrs. Von Kramer was able to visit the United States briefly in 2022 and 2023, possibly establishing a lawful presence for those years according to SSA standards. See SSA POM RS 02610.025 5-Year Residency Requirement for Alien Dependents/Survivors

Outside the United States (U.S.)

116. After a weekend trip to Cancun Mexico in January of 2023, Mrs. Von Kramer continued the process of applying for SSA survivors' benefits which started in May of 2023 and have continued with the requirement that Mrs. Von Kramer can not continue to receive benefits outside the U.S. if she is outside the U.S. for more than six months.

117. Mrs. Von Kramer has met SSA's requirements for payments and intends to continue her regular visits to the U.S. until SSA determines that she has established a lawful presence in the U.S. for five years.

DoS Refuses FOIA Requests

118. On 11 May 2023 via the DoS FOIA request web page Mr. Carr submitted two FOIA requests along with emails to FOIARequest@state.gov with required release forms for Mrs. Von Kramer and Mrs. Carr seeking all records related to the visa applications cited herein..

119. On 24 July 2023 responding to Case Number: F-2023-08493 Laura Stein, Deputy Director, Office of Domestic Operations, Directorate for Visa Services (DoS) stated that even with authorizations for release of FOIA information from Mrs. Carr and Mrs. Von Kramer, the DoS would still be required by section 222(f) of the Immigration and Nationality Act (8 US section 1202(f)) to keep confidential any visa records that were not previously received from or sent to the subject of the request.

120. This misconstrues 8 US section 1202(f) which states:

> (f) Confidential nature of records shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States,

121. However, the Fifth Amendment guarantees to all persons (including foreign nationals) the right to Due Process which certainly includes access to all the evidence presented against them. All such information must be released to the applicant in order to administer the immigration laws and the applicants' due process rights so 222(f) does not apply to applicants seeking access to records applicable to their case.

122. These requirements on administrative procedures even extend to properly classified information covered by the Classified Information Procedures Act (CIPA) which provides uniform procedures for prosecutions involving classified information.

123. In Kiareldeen v. Reno, see 71 F.Supp.2d 402, the court ruled in favor of an immigrant

applicant facing deportation. On appeal, the court ruled that the reliance on secret evidence violated his due process rights because (1) it deprived him of meaningful notice and an opportunity to confront the evidence against him, and (2) exclusively hearsay evidence could not be tested for reliability.

Count 5

DoS OIG Refuses to Investigate or Report Federal Crimes

124. The Plaintiffs repeat and re-allege paragraphs 1 through 123, as if fully set forth herein.

125. In early October 2018 Mr. Carr submitted a complaint via the DoS OIG hotline (a web page) concerning malfeasance in the processing of visa applications as the DoS BCA did not provide due process, particularly the right to representation, lack of a written decision based on the evidence and the law, and right to appeal.

126. On 10 October 2018 he was assigned reference number H20190052 and a response which included 'We have reviewed your complaint and determined that the appropriate office to address your concerns is the Bureau of Consular Affairs, Executive Office. Your information has been forwarded to that office.'

127. This was consistent with The DoS OIG hotline web page at https://www.stateoig.gov/hotline which states 'Please note: OIG does not investigate complaints about the denial of U.S. visas.'

128. In April of 2023 Mr. Carr again complained about the lack of due process in processing visa applications and received the same response (apparently a form email) with H20231749 on 20 April 2023 for Mrs. Carr and H20231753 on 18 April 2023 for Mrs. Von Kramer.

129. However, in the 2023 complaints Mr. Carr explicitly made a plausible allegation of falsifying government records (a federal crime) from omitting required information from the denial notices as required by Due Process. Specifically there was no reference to any of the actual evidence presented or considered.

130. The right to a written decision well founded on the evidence is particularly important (perhaps the foundation of due process) and 18 U.S. Code Section 1001 defines a federal crime (falsification of government records) as:

> (a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --

(1) falsifies, conceals, or covers up ... a material fact;

131. This has been held to include the omission of required facts which would include the rationale for a particular visa denial. It would also include having contradictory records, e.g. the video recording which included absurd conclusions such as that Mrs. Carr could not receive a non-immigration visa while she had an outstanding immigration application and a written decision which has no explanation at all.

132. Mr. Carr asked that the matter be forwarded to the DoJ as DoS OIG was required to report all plausible allegations of federal crimes to the Attorney General by statute, i.e. the INSPECTOR GENERAL ACT OF 1978 which states in part that the 'Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law'

133. Mr. Carr explained that if the DoS OIG did not have sufficient resources to investigate every plausible allegation of a federal crime, it was acceptable to forward the complaints to another department for resolution (perhaps even local management) as long as the complaint was also forwarded to the DoJ.

134. Further, on 20 June 2023, Mr. Carr reported this malfeasance and, potentially, obstruction of justice within the DoS OIG to the DoS IG, Secretary Blinken (DoS), and CIGIE.

Count 6

CIGIE Takes No Action to Insure Lawful IG Compliance

135. The Plaintiffs repeat and re-allege paragraphs 1 through 135, as if fully set forth herein.

136. On 20 June 2023, Mr. Carr complained to the CIGIE about DoS IG not reporting federal crimes to the DoJ as required by statute.

137. On 9 August 2023 the CIGIE responded that it was closing the case IC23-083 with no action taken (a standard form letter email with no reference other than the date of complaint and case number).

138. On 9 Oct 2023, Mr. Carr complained to the CIGIE about USPS IG not reporting federal crimes to the DoJ as required by statute.

139. On 1 Nov 2023 the CIGIE responded that it was closing the case IC24-010 with no action taken (a standard form letter email with no reference other than the date of complaint and case number).

140.46Mr. Carr was seeking that the council abide by its charter and insure that all Inspector Generals (IG) and staff under the different IGs are aware of the requirement to report all federal crimes to the Attorney General (AG) or, logically, the Department of Justice (DoJ), whenever they believe a federal crime has been committed within their purview / department(s) which they monitor. See the INSPECTOR GENERAL ACT OF 1978, Section 4, which states in part that the "Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law."

141. It appears the United States Postal Service (USPS), Department of State (DoS) and Department of Homeland Security (DHS) IG's have each decided that they can choose not to prosecute certain federal crimes, particularly those crimes which have been integrated into the monitored departments normal procedures and which would be greatly disruptive to the monitored department to correct. They do this by refusing to report these crimes to the DoJ.

142. However, just because criminally illegal processes are integrated into the monitored department does not make them immune from prosecution. The decision to prosecute resides solely with the DoJ and failure of the IG to report federal crimes is at least malfeasance and could be construed to be obstruction of justice (another federal crime).

143. Mr. Carr was not asking for prosecution of any crime but only a directive from the CIGIE that all OIG personnel report all plausible allegations of federal crimes to DoJ even if they do not have sufficient resources to investigate the allegation and can not confirm that the crime is likely, much less prosecutable.

144. Further, it appears that the CIIGE has gone from a council which was intended to develop and enforce the highest standards adherence to the law to instead become a group that supports and encourages criminal behavior in their monitored departments and shares ideas and methods for supporting the criminal behavior. This could be construed as going beyond simple obstruction of justice to violating federal RICO criminal statutes, e.g. collusion between the illegal orders of the USPS BoG, USPS senior management, USPS IG, and CIGIE.

18 USC § 1505 - Obstructions of proceedings (OIG Case)

18 USC § 1510 - Obstruction of criminal investigations

Bribery to prevent communication with investigator

18 USC § 201 - Bribery of public officials and witnesses

Illegal order to OIG case worker to not report federal crimes to DoJ,

Case worker (or IG) gets to keep job if they do not report federal crimes to DoJ

18 USC Ch 96 (RICO) -

145. Of course Mr. Carr is not arguing that the RICO charges would be prosecutable or even recommending / asking the DoJ to prosecute any party, only that DoJ insures that all agencies of U.S. government endeavor to obey all lawful statutes to include reporting all plausible allegations of federal crimes to the DoJ.

Count 7

USCIS Denies Citizenship After Approval

Initial Applications

146. The Plaintiffs repeat and re-allege paragraphs 1 through 145, as if fully set forth herein.

147. On 04 Aug 2020, USCIS received Mrs. Carr's I-751 application for a permanent green card (remove two year conditions) with receipt MSC2091582908. However, there was no interview with Mrs. Carr receiving an 18 month extension letter and later a 24 month extension letter (thus extending the original expiration of her 'green card' from 13 Nov 2020 to 13 Nov 2022). This delay in scheduling the I-751 interview is a direct violation of 8 CFR Section 216.4(b)(1) which states:

> … The director must either waive the requirement for an interview and adjudicate the petition or arrange for an interview within 90 days of the date on which the petition was properly filed.

148. On July 11, 2022, Mrs. Carr submitted her N-400 application for naturalization as USCIS timetables suggested her I-751 interview was imminent and there was a 9 month delay for N-400 interviews. This would allow her to complete her I-751 interview and get her permanent green card about six months before her N-400 interview. This would allow time for her to study for the English and civics exams without concerns about having an expired green card.

Mrs. Carr's emphatic desire for a permanent green card before citizenship

149. It is important to understand that Mrs. Carr was absolutely terrified of USCIS. As an older immigrant from a poor family with extremely limited education, only 4 years of schooling, and no formal exposure to English in her childhood, Mrs. Carr feared arbitrary, capricious and unjust actions by USCIS such as deporting her without cause or notice if she failed her citizenship test or leaving her stranded overseas, not able to return to the U.S..

150. Mr. Carr also came from a relatively poor family, but he was born in the U.S. and was very fortunate. Mr. Carr graduated from West Point and later received a graduate degree from M.I.T.. Mr. Carr could not believe that USCIS would take unlawful and illegal actions such as leaving Mrs. Carr stranded overseas unable to return to the U.S.. It turns out in retrospect that Mrs. Carr was more correct than Mr. Carr.

Unlawful Restrictions on Travel by USCIS, Stranded in Thailand

151. In September of 2022, Mrs. Carr returned to Thailand on an emergency basis as her mother's health was failing. Sadly Mrs. Carr arrived just after her mother's death but was able to participate in the funeral ceremonies which extended until December of 2022 as Thai traditions has the ashes from the cremation waiting 100 days before being taken back by the family.

152. Her green card and extensions expired on 13 Nov 2023 while Mrs. Carr was in Thailand on an emergency basis. Even though 8 CFR Section 216.4 states ... 'Upon receipt of a properly filed Form I-751, the alien's conditional permanent resident status shall be extended automatically, if necessary, until such time as the director [of USCIS] has adjudicated the petition.', USCIS refused to provide Mrs. Carr with any documentation to allow her return to the United States. This is contrary to the above statute.

153. USCIS's suggestion for how Mrs. Carr was to return to the US was via an I-131A (for travelers who have 'lost' their documents to get a one time document allowing their return for a $575 fee). Instead Mrs. Carr got a $160 multiple entry B1 / B2, business / tourist visa and was able to return to the USA in late Dec 2022.

Rescheduling Original Interview

154. Further, USCIS scheduled Mrs. Carr's N-400 interview for 14 Dec 2022. Mr. Carr explained to USCIS that Mrs. Carr would be unable to attend as she was out of the country and could not return due to USCIS's refusal to provide her with proof of valid permanent resident

status. On 21 Nov 2022 USCIS canceled the 14 Dec 2022 interview and later scheduled her joint interview for I-751 and N-400 for 30 Jan 2023.

A-551 Passport Stamp Instead of Green Card

155. Mrs. Carr was also able to come into a USCIS office on 3 Jan 2023 to get an A-551 stamp in her passport which was valid for one year but does not provide the full ability to travel and work freely of a traditional green card.

Improper Application of English Requirement to Older and Poor,
Discriminates Against Buddhist and Islamic Cultures

156. Prior to the interview on 30 January 2032, Mr Carr initiated a complaint with the DHS OIG that the English requirements for naturalization were discriminatory based on religion, income, age and culture.

157. It is well established that the appropriate time to learn the sounds of English is soon after birth. Further the appropriate time to learn to recognize the shapes of English characters is before adolescence.

158. For example, in Thai language there is no 'th' sound. Further, the pair of plosive sounds d and t are not in the Thai language. The Thai language includes only the consonant that is between d and t. As an adult Mr Carr cannot hear the sound that is between d and t nor can he pronounce it. Similarly, because Mrs. Carr was not exposed to English at an early age, she is unable to hear or pronounce the 'th' sound.

159. Similarly, the time to learn to recognize the characters of the English alphabet is before adolescence. While it is possible to learn to recognize a foreign alphabet at later years, the recognition will never be as quick, accurate or comfortable as if it was learned before adolescence.

160. The actual effect of the English requirement for citizenship is to discriminate against older individuals from poor families from Buddhist and Islamic countries.

Joint I-751 and N-400 Interview of 30 Jan 2023

161. There was a joint I-751 and N-400 application on 30 Jan 2023. The informal results were that Mrs. Carr failed the English and civics tests. The interviewer also canceled the 'final' portion of the I-751 interview which was an undocumented and possibly unlawful review of the 'criminal background' questions from some previous forms (not part of the I-751

application itself) as Mrs. Carr did not understand English and so could not personally answer those questions.

162. The results of the interview were given verbally and informally at the time of the interview. There was also a poorly written and ambiguous form letter with check boxes concerning the N-400 results.

163. However, the next day (31 Jan 2023) USCIS entered a formal written decision for the I-751 application (previously provided to relevant Defendants as I797forMSC2091582908-ioe9752855294.pdf.) which stated in part:

> We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship. If you have questions regarding this process, please contact the USCIS contact center at 800-375-5283.

164. Mr. and Mrs. Carr were elated at this change in fortune as it was a complete reversal of the informal verbal results. They relied on the formal written decision as a final findings of facts, decision, and order (to borrow from judicial terminology which is appropriate for a serious due process matter concerning the ability to vote and work and travel freely).

USCIS Denied I-751 Through False Statements

165. Within a couple of weeks Mr. and Mrs. Carr inquired at the specified contact number as to when the Oath of Allegiance would be scheduled and were told that the normal processing time for such matters was 4 or 5 months and that they should call back after that.

166. Mr. and Mrs. Carr would later learn that her I-751 was actually denied (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 are no avenues within USCIS to actually get the permanent green card.

USCIS Unlawful Policies Justified as 'Enforcement'

167. The US government has had a long history of discriminating against foreign nationals with

USCIS and its counterpart for visas in the Department of State each contributing through an unlawful disregard for due process.

168. However, during the Trump era with the appointment of Director Francis Cissna, confirmed 5 Oct 2017, USCIS went to new heights of illegally mistreating foreign nationals.

169. Specifically, USCIS stopped waiving of the interview for an I-751 application even though these waivers were mandatory in accordance with 8 CFR Section 216.4 (b) which states:

> "The director must either waive the requirement for an interview and adjudicate the petition or arrange for an interview within 90 days of the date on which the petition was properly filed."

The unlawful elimination of waivers (previously about 90% had been waived) created an explosion in the unlawful queue for I-7171 interviews for USCIS which already had an illegal 1-year backlog of applications. Further, the interviewer was now required to verbally confirm the prior criminal background questions.

170. As most I-751 applicants do not speak English and most USCIS interviewers speak only English, USCIS effectively stopped conducting interviews for I-751 applications. Instead of adding more resources to conduct the expanded interviews with the collected fees, USCIS just illegally stopped conducting interviews which, along with the illegal termination of the mandated waivers, added to the explosion of the illegal queue for I-751 interviews. Executive Discretion gives wide latitude to the executive branch but this does not extend to explicitly prohibited behavior when there are legal options available such as using the collected fees for their specified purpose of granting waivers and conducting interviews. As cited above, USCIS was explicitly required to grant a waiver or schedule the interview and adjudicate the I-751 within 90 days of the acceptance date of the I-751 in 8 CFR Section 216.4(b)(1).

171. Instead USCIS simply waited until the applicant later filed an N-400 application for citizenship, though not all applicants later filed N-400 applications. Then the interviews were combined with the verbal review of the criminal background questions conducted in English, assuming the applicant was able to pass the English test. Further, the criminal background questions were already part of the N-400 interview in any case.

172. However, if the applicant was unable to pass the English test, then USCIS was in a bind for the I-751 new criminal background portion of the joint interview. USCIS had to find a creative solution to process this case.

173. It appears that USCIS chose to effectively deny the I-751 application by claiming it was approved along with the N-400 so that no permanent resident card was provided. However, USCIS would then refuse to provide either a permanent resident card or certificate of naturalization by later claiming in future case updates that the N-400 application had not been approved.

174. This meets the criteria of a federal crime because the effective denial of the I-751 application was based on a claim that USCIS believed was false. For future reference, this will be called 'effective denial based on false premises'.

USCIS Provides Incomplete or False Estimates of Interview Dates

175. When USCIS effectively ceased providing separate I-751 interviews, they did not provide notice to applicants nor did they provide accurate estimates for the dates when interviews would be scheduled. The actual scheduling of I-751 interviews was never unless the applicant submitted an N-400 application (citizenship) in which case both interviews were scheduled together almost immediately irrelevant of the normal queue for N-400 interviews.

176. This caused great uncertainty and fear for those applicants who were poorly educated with limited English ability and poor understanding of US government procedures such as Mrs. Carr.

177. The phone number provided by USCIS for questions and concerns was answered by an automated phone system which was distinctly unresponsive and would routinely hang up on applicants if they were not able to correctly formulate a request or question which the automated could respond to.

178. For most of the time when the I-751 application was pending scheduling an interview (and in a queue over two years long and growing), there were no requests or questions which the automated system could respond to. It was certain that the automated system would hang up on the applicant after about five minutes of struggling to find a way to speak to an actual person where they could explain their concern. This phone number was the only point of

contact for applicants attempting to get information about the status of their application.

Criminal Background Questions Unlawful

179. Just after the interview of 30 January 2023, Mr Carr also initiated an IG complaint concerning the criminal background questions which were routinely included as part of the USCIS application policy.

180. In particular, there are no exceptions provided about classified information which cannot be released to the interviewer or records sealed by a lawful court order.

181. Further, it is overly broad to not restrict the questions to actual convictions for serious crimes. As stated the questions would include every minor traffic or even parking violation in the state of Texas where such violations are considered crimes. The truth is, no one remembers all the situations where they may have gone over the speed limit or parked a few inches too close or too far from the curb.

182. In fact, the only accurate answer to any of the criminal background questions is 'yes' with an explanation of 'I can neither affirm nor deny the existence of information relating to this question.'. Any other answer could risk violations of the law by providing either classified or sealed information. Further, no one remembers or even knows all the circumstances where they may have violated some minor traffic, parking, or zoning regulation.

USCIS Informed of Upcoming Travel Plans

183. In August, Mr. and Mrs. Carr contacted USCIS about scheduling a new A-551 stamp for Mrs. Carr's passport to preserve her limited ability to work and travel based on their travel plans to be out of the country from 10 Oct 2023 to 25 Dec 2023. They were told that they could not get a replacement A-551 stamp as they can only be issued within 30 days of expiration and the applicant must be in the US to get the stamp.

184. In August Mr. Carr also contacted his congressman, Representative Veasey, seeking assistance in getting the Oath of Allegiance scheduled as no action had been taken in the matter.

N-400 Interview of 30 Jan 2023 Canceled

185. However, on 01 Sep 2023 USCIS sent a notice (USCIScancel20230901-20230130.pdf previously provided to relevant Defendants) which states that "the interview of 30 Jan 2023 was canceled due to unforeseen circumstances" (sent under the N-400 receipt). Of course

this is a completely false document (and hence a federal crime) as the N-400 interview was completed and this document contradicts several previous documents and verbal statements as well as the final decision in the I-751 case and later activity in the N-400 case.

186. On 5 Sep 2023 Mr. Carr and Mrs. Carr called USCIS at the prescribed number and spoke with Destiny, ID G010590.

They asked that Destiny send an email to the appropriate party to promptly schedule Mrs. Carr's Oath of Allegiance as stated in the cited I-751 approval notice and, in the alternative, if an N-400 was not actually approved, that Mrs. Carr be sent a new 10 year Permanent Resident Card.

Destiny explained that it is not uncommon for additional interviews to be required even after the I-751 and N-400 are approved and that Mrs. Carr could not be sent the approved Permanent Resident card. Implicitly her statement indicates that such formal approvals were actually effective denials based on false premises.

At that time Mr. Carr asked that Destiny take notes for details to include in the email she would send on their behalf.

Mr. Carr cited 18 U.S. Code Section 1001 which is one of many criminal codes for falsification of government records and states in part:

(a) ... whoever, in any matter within the jurisdiction of the executive... branch of the Government of the United States, knowingly and willfully --

(1) falsifies, conceals, or covers up ... a material fact; ... or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years

(3) prohibits taking any action based on a false document with the implicit exceptions that actions may be taken to: correct the false document or, if the individual is not authorized to correct the false document, to report the false document to their supervisor

and / or the relevant OIG explaining that there is an existing false document and a possible federal crime when the document was created.

N-400 Interview Scheduled for 11 Oct 2023, Insufficient Notice

187. On 06 Sep 2023 USCIS scheduled an interview for 11 Oct 2023 as shown in UscisI797intrvw20231011.pdf (document previously provided to relevant Defendants), but the actual notice was not received until 15 Sep 2023 when it as too late to respond until the next week as Mrs. Carr works Tuesday to Sunday and is not able to respond while she is working.

188. The arrival date of this notice is a critical issue as there must have been timely notice of the interview in order to justify the denial of the N-400 application for failure to appear. In USCISuspsMailArrivals20230915.pdf (previously provided to relevant Defendants) is an email from USPS which shows the mail which arrived at their address on 15 Sep 2023. The notice of 06 Sep 2023 seems to have been mailed on 12 Sep 2023 according to the postmark shown in the USPS email. As 30 days notice is required for such interviews, the notice on 15 Sep 2023 was not timely for an 11 Oct 2023 interview and the denial of the N-400 application for failure to appear must be overturned due to lack of notice.

189. In the contested decision there is no claim of any notice at all and it appears that USCIS routinely delays mailing documents a few days after the date of the 'notice'. In cases of mailed documents they adjust the 30 days to 33 days to allow for time in the mail, but there is no adjustment for delay in printing and actually mailing the notice. Given that this document took 9 days to arrive, a more realistic adjustment for mailing would be 45 days if mailed without the normal proof of mailing.

Complaint of Falsified Records, 01 Sep 2023 Cancellation

190. On 10 Sep 2023, Mr. Carr contacted the USCIS director and DHS IG reporting the contradictory records (was the interview held on 30 Jan 2023 which approved the I-751 and N-400 or was it canceled with no results). With contradictory records, one or more of them must be false, the foundation of the federal crime of falsification of government records.

191. Mr. Carr also asked for acknowledgement of the report within 7 days. No such acknowledgement has been received to date.

192. On 07 Oct 2023, Mr. Carr asked that DoJ assist in correcting these serious defects in USCIS

and DHS IG. The reports of the crime and request for assistance have previously been provided to relevant Defendants. (Note: Mr. Carr was unaware of the scheduling of the interview for 11 Oct 2021 on 06 Sep 2023 when he first reported the crime).

193. On 12 Sep 2023 Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Umika, ID G20028112.

They complained of the 1 Sep 2023 I-797 Notice of the canceling of the 30 Jan 2023 N-400 interview due to unforeseen circumstances (described previously). They explained that the interview was held on that date and the 01 Sep 2023 document is a false record (and federal crime) which also contradicts the I-751 final decision of 31 Jan 2023 which stated that the N-400 application was approved at that interview. They advised Umika that she must either correct the false record or, if she did not have the authority to correct the record, she must contact either her supervisor or the IG or both to report the crime. Failure to do so on her part would itself be a crime under 18 U.S. Code Section 1001, part 3, which Mr. Carr read to her after asking her to take notes.

Mr. and Mrs. Carr also asked that Mrs. Carr immediately be sent the new 48 month extension letter which was publicly authorized by USCIS on 23 Jan 2023, one week before the interview (so USCIS was required to have mailed her a copy of the extension letter before the interview). The USCIS announcement was also about two months after they had complained to USCIS and the DHS OIG that USCIS had unlawfully left Mrs. Carr stranded in Thailand due to the absence of such a 48 month extension letter.

They also asked that USCIS send Mrs. Carr a permanent green card as soon as possible as there was now a record in the N-400 case indicating that her N-400 application had not been approved and so there was no basis for withholding the approved green card.

They also asked that the local representative contact the USCIS director in order to get copies of the emails which properly explained their complaints to date as that was the only method of sending written documents to USCIS for their consideration.

They also asked that the local representative call them back on Monday 18 Sep 2023 at 9AM as Mrs. Carr would be working during normal business hours on Tuesday through Sunday and unable to take calls. No such callback was made. (Note: At this time, Mr. Carr was unaware of the scheduling of the interview for 11 Oct 2021 on 06 Sep 2023 and did not receive notice until 15 Sep 2023.)

First Request to Reschedule Interview

194. On 19 Sep 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with David, ID G009845. (Note: this request was timely as Mr. Carr only learned of the scheduled interview date on 15 Sep 2023)

They requested that the interview scheduled for 11 Oct 2023 be rescheduled as they had prior plans to be out of the country from 10 Oct 2023 to 25 Dec 2023.

Mrs. Carr asked if the interview could be scheduled for only a day or two earlier but they were told that it could not be scheduled earlier.

Their request to reschedule the interview was assigned ID T1B2622391513DAL.

Upon a lengthy description of the purpose of the ten week trip, David incorrectly summarized the reason for the trip as 'leisure' which raised concerns for Mr. Carr that their trip was not being given appropriate gravity. They asked that David request that USCIS reschedule for after the completion of their trip on 25 Dec 2023. It turned out that David was restricted to 80 characters in his request and so described the reason for rescheduling as Mrs. Carr will be out of the country from 10 Oct 2023 to 25 Dec 2023 to increase the likelihood that the individual who responded would be aware of the duration of their trip.

They also asked that Mrs. Carr be provided with a 12 month extension letter as her A-551 stamp would expire on 03 Jan 2023 and if there were health or other problems which delayed their return, she would no longer have proof that she was authorized to work and travel freely. David assigned sn 30214416 to a request that a local USCIS representative

call Mrs. Carr from 2028382104 to discuss the extension letter.

Unsuccessful Call Back on 21 Sep 2023

195. The call back by the local USCIS representative was made on 21 Sep 2023 in the morning. Mrs. Carr was not home (as she was working) but it was rescheduled for later that evening at 7:30PM when Mrs. Carr was likely to be home. Mr. Carr called Mrs. Carr and she came home a little early and was home by 7PM but the USCIS representative did not return the call as agreed upon. No further return calls were made for this request.

Request that Mr. Carr be Mrs. Carr's Authorized Representative

196. Due to the confusion of not being able to get any response from USCIS, on 25 Sep 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Martha, ID G029811.

They asked about how to submit a G-28 appointment of Mr. Carr as the representative in this matter. They were told to mail the application to:

ATTN: N-400, G28 submission
850 NW Chipman Rd, Suite 5000
Lees Summit, MO 64063

An online G-28 request had been submitted on 24 Sep 2023 and the hard copy request was mailed on 26 Sep 2023. Martha also explained how to submit a document directly to USCIS on their web site and an electronic copy of the G-28 was submitted on 28 Sep 2023.

Martha also explained that USCIS responds to G-28 requests within 30 days. No response has been received to date on this G-28 request.

Denial of Reschedule Request, Not Sent to Authorized Email

197. While speaking with Martha on 25 Sep 2023, Mr. and Mrs. Carr also learned that on 19 Sep 2023, USCIS had denied their request to reschedule the interview and sent an email to airpk1961@gmail.com, an email address that is rarely monitored.

198. This was not proper. Before they were married Mrs. Carr had used that email and Mr. Carr had used carrbp@gmail.com. However, since their marriage they have shared their emails

with both parties having full access to both email addresses. As they have a legal union, they are not required to maintain separate personal email addresses and now reference all emails to carrbp@gmail.com which is regularly monitored. In rare cases when businesses insist on separate email addresses for separate persons, they provide Mrs. Carr's old email address, but that address is not regularly monitored. At no time have they agreed that USCIS should direct email notices to Mrs. Carr's old email address and none of the submissions to USCIS have authorized the use of that email address. The actual email from USCIS was previously provided to relevant Defendants as USCISnotReschedule20230919.pdf. It stated in part: "Type of service requested: -- Appointment Reschedule ... USCIS has reviewed your request for a rescheduled appointment, and we regret to inform you that your request has been denied based on the information provided. Failure to comply with your appointment notice or to appear for your scheduled interview may result in adjudication of your application based on the available information."

New request to Reschedule Interview

199. Due to the delay in their receipt of the denial of their request to reschedule the interview (sent on 19 Sep 2023, found on 25 Sep 2023), Mr. Carr uploaded a timely explanation of the reasons for rescheduling the interview on 27 Sep 2023 which has been previously provided to relevant Defendants as PostponeIntervieUntilAfter25Dec2023.pdf along with copies of the flight tickets, date restricted European visas, hotel reservations, required medical insurance coverage and European bus tour tickets, all of which are non-refundable. The document explains that the purpose of the trip is religious obligations, family obligations, business promotion, business training and education, and leisure. Planning for the trip was started in Feb 2023 and the leisure portion of the trip was to celebrate the approval of Mrs. Carr's N-400 application for naturalization as USCIS stated in I797forMSC2091582908-ioe9752855294.pdf on 31 Jan 2023.

200. On 2 Oct 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Crystal, ID G027432.

Mr. and Mrs. Carr asked that Crystal submit a new request to reschedule the interview based on the documents submitted on 27 Sep 2023. Crystal explained that they could not

make a new request to reschedule the interview until 15 days after the previous denial on 19 Sep 2023, i.e. 04 Oct 2023 (after the start of Mrs. Carr work week).

They explained that they had provided additional justification for rescheduling the interview which has been uploaded for USCIS to consider.

They asked that USCIS review the uploaded G-28, separately filed online and sent via mail and submitted electronically 28 Sep 2023. Crystal explained that USCIS has 30 days to act on G-28 requests.

201. On 10 Oct 2023, Mr. and Mrs. Carr called USCIS at the prescribed number and spoke with Antoinette, ID G0023588.

Mr. and Mrs. Carr asked that Antoinette submit a new request to reschedule the interview explaining that it was more than 15 days after the previous denial of the request to reschedule and explained that they had submitted additional documentation.

Antoinette contradicted the previous representative, Crystal, and stated that new requests to reschedule can only be made more than 30 days after a previous denial. As interviews are scheduled with the nominal 30 days notice (33 days if notice is by mailing), this would ensure that USCIS never reconsiders any denial of rescheduling no matter what the extenuating circumstances. As this claim also contradicts the previous representative it is likely that Antoinette's and possibly Crystal's claims are false and, hence, federal crimes.

Access to Case Records Unlawfully Denied

202. On 01 Sep 2023, Mr. Carr submitted a request for the entire record in the I-751 and N-400 cases via an online submission of a G-639 FOIA request. Mr. Carr asked for every email, message, or other records which reference the two receipts in this matter (MSC2091582908 and IOE9752855294) including both audio and video recordings. The request was assigned request ID NRC2023277190 and the response was made on 05 Oct 2023.

203. However, the response was only 32 pages and was only the original I-751 and N-400 applications. On 31 Oct 2023 a new FOIA request was submitted via email a copy of which

was previously provided to relevant Defendants as USCISfoiRqst.pdf. Note that this is a violation of the applicant's due process right to have access to the evidence against the applicant. Mr. Carr had requested access to every record which the tribunal relied on to deny the N-400 application, but was denied access to all such records. It is also possible that the claim that there were only two responsive documents was a federal crime of falsifying government records as it is clear that more records were requested and there was no justification for withholding the other documents.

USCIS Denies N-400 Citizenship Application for Failure to Appear

204. The Decision from USCIS dated 13 October 2023 previously provided to relevant Defendants as USCISdeny20231013.pdf states:

> On July 11, 2022, you filed a Form N-400, Application for Naturalization, with U.S. Citizenship and Immigration Services (USCIS) under section 319 of the Immigration and Nationality Act (INA). After a thorough review of the information provided in your application for naturalization, the documents supporting your application, and your testimony during your naturalization interview, USCIS has determined that you are not eligible for naturalization. Accordingly, USCIS must deny your application for naturalization. ...
>
> On November 13, 2018, you obtained conditional permanent resident status through your spouse and your conditions were removed on January 30, 2023. USCIS received your Form N-400 on July 11, 2022, and on January 30, 2023, you appeared for an interview to determine your eligibility for naturalization.
>
> At the beginning of your naturalization interview, an Immigration Services Officer placed you under oath and then administered the naturalization test. At that time you were unable to write a sentence in ordinary usage of the English language, and answer 6 of 10 U.S. Government and history (civics) questions correctly. Since you did not achieve a passing score on the English or civics portions of the naturalization test, on October 11, 2023, you were scheduled for a second interview to retake these portions of the naturalization test. On October 11, 2023, you did not appear as requested. Further, you have not provided USCIS with a good reason for your absence. Your failure to appear at the second

interview means you have not passed the English or civics testing requirements for naturalization. As a result, you are ineligible for naturalization since you have not demonstrated your ability to pass the English or civics requirements for naturalization. Therefore, USCIS must deny your application for naturalization. See INA 312 and Title 8, Code of Federal Regulations (8 CFR) section 312.5(a) and (b).

If you believe that you can overcome the grounds for this denial, you may submit a request for a hearing on Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, within 30 calendar days of service of this decision (33 days if this decision was mailed). See attached 8 CFR 336.2 (a) and 103.8(b). Without a properly filed Form N-336, this decision will become final. See INA 336.

USCIS Refuses to Provide New Green Card

205. On 19 Oct 2023, Mr. and Mrs. Carr called USCIS at the proscribed number and requested that Mrs. Carr be sent a new Green Card as her I-751 was approved on 31 Jan 2023 but the Green Card was withheld as her N-400 was also approved and her Certificate of Naturalization was imminent. However, the purported Decision of 14 Oct 2023 clearly indicates that USCIS does not intend to provide Mrs. Carr with the promised Certificate of Naturalization in the foreseeable future.

206. This request resulted in a referral of T1B2922301353MSC which concerned 'Non Delivery of Permanent Resident Card'. It was answered on 27 Oct 2023 with the document previously provided to relevant Defendants as USCISnoGreenCard20231027.pdf which listed 'Type of service requested: -- Non-Delivery of Permanent Resident Card' but answered with: "You ... contacted U.S. Citizenship and Immigration Services (USCIS) because you have not received your denial, termination or revocation notice. We have enclosed a copy of the notice for your reference. Please note that we are not able to extend the period for you to file an appeal from this decision. Therefore, follow the instructions on your notice carefully and submit accordingly."

207. There was no notice attached and the text does not make sense with respect to the request for a green card from an approved application. It appears to be the standard form letter message for a denial of a request.

208. The form letter does mention the requirement to contest an unfavorable decision within 30 days and, of course, pay the $700 fee first. However, as this decision referred to was an approval which was illegally contorted by false pretenses to be an effective denial, the text of the response is not responsive to actual request.

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.

Legal Arguments

Lack of Jurisdiction

210. Of primary importance is the lack of jurisdiction for USCIS to revise or ignore a prior final decision.

211. It is well understood that in the interest of justice to all parties in an action, there must be some final closure of arguments and litigation. Final decisions are intended to provide that relief to all parties with the caveat that each party has 30 days to notify all other parties of any pending disagreements. This is normally done through a notice of appeal requirement, generally within 30 days after proof of service of the decision by the prevailing party.

212. If USCIS had any complaints or concerns with the findings of facts in the I-751 decision of 31 Jan 2023, they should have raised the concerns within 30 days of publication of the decision.

213. As there is no avenue for USCIS to submit a motion for reconsideration of a matter which was decided by USCIS, the only forum where USCIS can seek redress is a new action in the federal district courts.

214. To provide otherwise is to deny all applicants to USCIS from the justice of having any final decision.

Lack of Notice to Support Failure to Appear

215. Another fundamental principle of due process is that all participants must be given adequate and sufficient notice of any action. It is clearly a travesty of justice to deny an application because of failure to appear when there is no evidence of notice.

216. In particular, in this case there is compelling evidence showing that Mr. Carr did not receive

notice of the upcoming interview until less than 30 days before the interview, i.e. 15 Sep 2023 for a hearing on 11 Oct 2023. As such, the improper denial must be overturned.

Lack of an Independent and Impartial Tribunal

217. One of the fundamental premises of due process is to have matters decided by an independent and impartial tribunal. It is important to recognize that Mr. Carr had filed numerous complaints with the DHS OIG concerning malfeasance and other unlawful activities by USCIS. His final complaints were for the federal crimes of falsifying government records by several employees who reported directly or indirectly to the director who made the final decision.

218. It is absurd to even consider that the Field Office Director, Ms. Montgomery, could be unbiased in resolving a matter in which several of her employees were accused of federal crimes which would surely reflect poorly on her own performance and future career opportunities.

Additional Federal Crimes by Ms Montgomery

219. One of the foundations of any government of law is to have accurate written records of all proceedings. That is almost certainly why Congress has decided to make it a serious federal crime to falsify any government record.

220. When Director Montgomery cited the approval of the I-751 application without mentioning the finding of an approval of the N-400 application, she falsified the record by omitting required facts..

221. When Director Montgomery stated 'Further, you have not provided USCIS with a good reason for your absence.' without mentioning the original request to reschedule she committed the crime of falsifying the record by failing to include required facts. Further, Director Montgomery does not mention the extensive documentation of substantial financial and personal impact required to change long standing plans in order to attend the interview. This evidence was provided to USCIS, and she falsified the record by omitting critical facts.

222. The entirety of her decision is based on timely notice and lack of response but she fails to discuss any of the factors which are critical elements of her decision.

Right of Appeal Prohibitive / Denied

223. The contested decision continues with the following text:

If you believe that you can overcome the grounds for this denial, you may submit a request for a hearing on Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, within 30 calendar days of service of this decision (33 days if this decision was mailed). See attached 8 CFR 336.2 (a) and 103.8(b). Without a properly filed Form N-336, this decision will become final. See INA 336.

224. An initial reading of this paragraph suggests that there are administrative procedures for appealing such bad decisions. However, while USCIS borrows heavily from judicial terminology in describing their processes and procedures creating the semblance of 'due process', the reality is USCIS does not provide any of the elements of due process.

225. In particular, the required fee to file N-336, request for a hearing, is a hefty $700 while the fee for filing a new N-400 is only $625. Similarly, the filing fee for a motion to reconsider is also $700 as is the fee for filing a 'Notice of Appeal'. For a budget minded applicant, the filing fees with federal district courts are a much more affordable $350 (admittedly heavily subsidized) so that applicants with limited assets may only be able to afford to file with the district courts rather than pursue the absurdly expensive administrative alternatives.

226. The likely reason that federal district courts are heavily subsidized is that justice should be provided to all persons and should not be restricted to the wealthy who can afford substantial fees.

Automated Phone System Prevents Applicants from Being Heard

227. It is a violation of due process for USCIS to restrict applicants to an automated phone system for all questions, concerns, requests, and evidence.

228. First of all, USCIS can not require all applicants to have phone access. They must provide a physical address where applicants and their representative or interpreter can ask questions and present concerns, requests, issues, and evidence. Appointments can not be required though substantial waits may be required without an appointment.

229. This in person access is required as each applicant must be permitted to be heard whether they have access to a phone or are technically savvy.

230. Further, it is a violation of due process when the automated phone system hangs up on applicants who are not able to correctly state their needs. The system must instead pass the request on to a human representative to hear the issues of the applicant though this option

may be deferred during non-business hours and holidays.

231. While providing this human access can be a significant expense, it is required for the due process opportunity to be heard.

232. If USCIS chooses it can also provide online secure messaging to applicants and their representatives as a cost effective way of providing a reliable and less expensive method raising concerns and getting responses.

Difficult Appointment of Spouse as Representative

233. It is a violation of the due process for USCIS to restrict the ability of an I-751 applicant's spouse to represent the applicant.

234. Due process requires the right to representation though not necessarily by an attorney. As the spouse is an American citizen, they almost certainly have better English and U.S. government skills. As such they are ideal representatives for their immigrant spouses.

235. In fact it is completely legal and proper for a spouse to represent the other party as needed in a real legal union (a.k.a. marriage). In truth, one of the signs of a fake marriage would be the absence of the citizen spouse to represent the immigrant spouse.

Inclusive Assumptions for Freedom of Information Act Requests

236. As due process requires that the applicant have full access to all of the evidence presented against him or her, the FOIA default must be to provide all records including audio and video recordings which the tribunal has access to.

Plaintiffs Were Damaged by USCIS's Unlawful Decisions and Actions

237. The refusal of USCIS to provide Mrs. Carr with her Certificate of Naturalization harmed Mrs. Carr by limiting her ability to vote and enjoy other privileges of citizenship. Also, Mrs. Carr has close family members (which includes two sons. a brother, and two sisters including Mrs. Von Kramer) who have been denied their right to apply for immigration and be placed in the queue for Permanent Residence (Green Card) as well as, potentially, citizenship.

Count 8

DHS OIG Takes No Action To Address Criminal Behavior

238. The Plaintiffs repeat and re-allege paragraphs 1 through 237, as if fully set forth herein.

239. On 4 Dec 2022, Mr. Carr complained via DHS OIG Hotline that Mrs. Carr had been

stranded in Thailand through the unlawful, knowing failure of USCIS to abide by the statutory mandates of 8 CFR Section 216.4 ... "Upon receipt of a properly filed Form I-751, the alien's conditional permanent resident status shall be extended automatically, if necessary, until such time as the director has adjudicated the petition."

240. Mr. Carr was assigned case number HLCN1670132157186 but has not received any further response from DHS OIG.

241. On 5 Dec 2022 expanded on his complaint against USCIS and received case number HLCN1670226793068 but has not received any further response.

242. It is possible that the announcement on 23 Jan 2023 of a new 48 month extension letter was based on Mr. Carr's complaint on 4 Dec 2022 that Mrs. Carr was stranded in Thailand due to the expiration of her 24 month extension letter.

243. However, Mrs. Carr's freedom to work and travel freely was never restored as she never received the 48 month extension letter.

244. On 10 Sep 2023, Mr. Carr notified the DHS OIG directly through the IG of the federal crimes committed by USCIS. He also opened a complaint via DHS OIG Hotline and was assigned case number HLCN1694292030038.

245. On 13 Nov 2023, Mr. Carr notified the DHS OIG directly through the IG of the additional federal crimes committed by USCIS as well as the 'whistleblower' retaliation taken by USCIS against Mrs. Carr for Mr. Carr's widespread reports of federal crimes. Mr. Carr also opened another complaint via DHS OIG Hotline and was assigned case number HLCN1699850033209.

246. It is the DHS OIG's responsibility to not only insure that such serious malfeasance and deprivation of a person's constitutionally guaranteed rights do not happen but also that the harm from failures is redressed to the degree possible by the monitored agency (USCIS in this case).

Count 8

DoJ Takes No Action To Address Criminal Behavior

247. The Plaintiffs repeat and re-allege paragraphs 1 through 246, as if fully set forth herein.

248. On 3 Mar 2023 Mr. Carr notified the DoJ Attorney General via mail of the allegations raised against the USPS, USPS OIG, and USPS BoG. The DoJ had previously been copied on the allegations as they were raised to the relevant agencies.

249. The DoJ opened reference NM301959635 for the matter with email contact of criminal.division@usdoj.gov, referring the matter to the Postal Inspection Service.

250. On 20 June 2023 Mr Carr notified the DoJ via mail of federal crimes and malfeasance in the DoS and related agencies and asking assistance in correcting the unlawful actions. Mr. Carr did not request the prosecution of any party. The DoJ had previously been copied on the various complaints with the DoS agencies.

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.

252. On 9 Oct 2023, Mr. Carr again asked the DoJ for assistance with the USPS problems clarifying that he was not seeking prosecution of any party but instead seeking to end the federal crimes and other unlawful practices.

253. On 25 Oct 2023, Mr. Carr again asked the DoJ for assistance in correcting the unlawful practices by CIGIE with respect to failing to maintain proper standards for IG's and OIG employees. He did not request the prosecution of any party, only assistance in preventing unlawful conduct. .

Relief Soughts

PRAYER FOR RELIEF

WHEREFORE, The Plaintiffs ask this Court to enter Orders:

USPS, OIG and DoJ Corrections

1. Directing USPS to provide a credit for future services for $26.35 to Mr. and Mrs. Carr; In the alternative, USPS can provide a credit to Mr. Carr's credit card (the same card which was charged initially) or a check in that amount to Mr. Carr in the event that USPS finds it too cumbersome to add support for credits for future services to its online web services.
2. Directing USPS to update its dispute / credit process so that postal customers can get guaranteed refunds for late deliveries with a single visit / web form with the presumption that the delivery was late as attested by the customer (and notice that falsifying a government record is a federal crime).

3. Directing USPS OIG to do a preliminary investigation whenever USPS delivery records conflict with the customer's attestation. USPS OIG must refer the matter to DoJ in all cases where there is clear evidence that either the customer or the delivery driver falsified a government record. Due to the automated nature of many USPS records, this determination could be automated to a substantial degree so that USPS OIG staff only need to get involved with cases where there are clear indications of falsification of government records.
4. Directing USPS to promptly correct all incorrect delivery records, certainly before they are accumulated and reported to Congress and the U.S. public or used for computing management bonuses.
5. Directing USPS OIG, DoS OIG, and DHS OIG to expeditiously investigate all plausible allegations of federal crimes. It the event that an OIG does not have sufficient resources to expeditiously investigate all plausible allegations of a federal crime sufficiently to determine if a federal crime is likely, it can refer the matter to local management or other parties for resolution, but it must report all such plausible allegations of federal crimes to DoJ which it does not investigate itself. If an OIG finds that any allegation of a federal crime is likely it must expeditiously report the matter to DoJ whether or not the crime is deemed to be worthy of prosecution. The determination of prosecution is reserved solely to DoJ.
6. Directing DoJ to investigate USPS BoG, USPS management, USPS IG, and USPS OIG management to determine if there were illegal orders preventing USPS OIG staff from reporting federal crimes to the DoJ. If there is evidence of such illegal orders, all such orders must be properly rescinded. Any penalties or prosecution is solely at the discretion of DoJ.
7. Directing DoJ to investigate USPS BoG and USPS management to determine if there were illegal orders encouraging falsifying delivery records (a.k.a. improper 'Stop the Clock' scans). If there is evidence of such illegal orders, all such orders must be properly rescinded. Any penalties or prosecution is solely at the discretion of DoJ.

Department of State Corrections

8. Directing DoS to provide a credit for future services of $80.00 to Mr. and Mrs. Carr and $624 to Mrs. Von Kramer. These credits can be used by the parties themselves, their family, or their friends. In the alternative, the DoS can provide checks in those amounts to the Plaintiffs in the event that DoS finds it too cumbersome to support these credits in their

otherwise automated payment system.

9. Directing DoS to ensure that all visa denials include clear and specific references to the evidence considered and rationale for denial. All visa denials must be reviewed by supervisors and corrected if there is not clear and specific references to the evidence considered and the rationale for denial. The applicant must be promptly informed of the rationale for the rejection in writing in any case. Any visa denials which are not corrected in this fashion should be referred to the DoS OIG and reported to the DoJ for any such omissions for decisions on prosecution for falsification of government records through omission of required facts.
10. Directing DoJ to work with DoS to ensure that all the elements of Due Process are properly implemented in the visa application review process with particular attention to the right to representation and the right to access all the evidence presented against the applicant.
11. The European Schengen visas could be considered as a starting point as they are able to provide fair and consistent visitor visas at an affordable rate, often relying on global firms who handle much of the burden of collecting and reviewing the required paperwork.
12. Directing DoS OIG to investigate whether there were unpublished unlawful policies or guidance provided to interviewers such as denying non immigrant visas to older widows of deceased American citizens or applicants with concurrent immigration applications. All such policies must be rescinded and any decisions on prosecution is reserved to the DoJ.
13. Directing DoS to evaluate all non-immigrant visa applications since 1 Jan 2018 to the present on a per country basis to determine the denial rate for applications where according the applicant was over 57 years old and marital status listed in the application would be indicative of eligibility for SSA survivors' benefits, specifically deceased spouse who was an American citizen or permanent resident with more than ten years residence and not remarried.
14. DoS is further directed that if the denial rate for the identified applicants is more than one standard deviation higher than all applicants for the specific country, then all identified applicants must be contacted and offered a credit for the prior denied visa application(s), adjusted for any increases in the application fees. Further, the prior applicant must also be provided with the SSA's preliminary determination of current eligibility for survivors' benefits based on the deceased spouse's work history and other dates provided by DoS from

the visa application.

SSA Order

15. Directing SSA to reconsider the finding that Mrs. Von Kramer's does not have five years of lawful presence in the United States. As Mrs. Von Kramer was unlawfully prevented from visiting the United States in 2019, 2020 and 2021 with the stated goal of, among other things, establishing a lawful presence, the SSA is directed to credit her with having met the requirements of lawful presence for those three years. If her actions in 2022 and 2023 or later years meet the requirements for lawful presence, then Mrs. Von Kramer must be held to have established a lawful presence in the United States and granted the benefits thereof.
16. Any DoS identified applicants whose previous non-immigrant visas may have been improperly denied as determined above and who later are granted non-immigrant visas should also be given letters from the DoS stating that the applicant may have been denied prior visa applications unlawfully and asking that SSA credit the applicant with 'lawful presence' for the years when they may have been unlawfully denied the ability to visit the U.S. with the letter identifying the date of the first improper denial and the date of the first approved visa.

CIGIE Corrections

17. CIGIE must review its standards and policies to ensure that all IG's and OIG employees are aware of the requirements to expeditiously investigate and report federal crimes. In the event that a particular OIG does not have sufficient resources to expeditiously investigate all plausible allegations of a federal crime sufficiently to determine if a federal crime is likely, it can refer the matter to local management or other parties for resolution, but it must report all such plausible allegations of federal crimes to DoJ which it does not investigate itself. If a particular OIG finds that any allegation of a federal crime is likely it must expeditiously report the matter to DoJ whether or not the crime is deemed to be worthy of prosecution. The determination of prosecution is reserved solely to DoJ.
18. Directing the DOJ to investigate the failure of CIGIE to itself promptly investigate and report federal crimes. All such practices and policies which led to past failures must be rescinded. The decision on penalties and prosecution are reserved solely to the DoJ.

USCIS Corrections

Credit for Visa Fees when Stranded Overseas

19. Directing USCIS to provide a credit for future services with USCIS to Mr. and Mrs. Carr for $80 for use on their behalf as well as their family members and friends. This credit is half of the business / tourist visa application fee which was required in order for Mrs. Carr to return to the U.S. when she was stranded in Thailand in 2022. The fee was $160, but DoS has been requested to provide the other half for their unlawful denial of such a visa to Mrs. Carr in 2017. In the alternative USCIS may choose to provide checks to all injured parties as an alternative to credits for future services in this and other reparations, but this is solely at the option of USCIS. It is possible that the total reparations requested may justify handling them as credits for future services.

Right to work and travel freely as well as right to vote

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.

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.

In the event that this court determines that it does not have jurisdiction to fully order the implementation of the Final Decision of 31 Jan 2023 approving both of Mrs. Carr's I-751 and N-400 applications, the court is asked review the Denial of Mrs. Carr's N-400 application on 14 Oct 2024 'de novo' per 8 USC section 1421(c).

Credit for Delay in Granting Citizenship

21. Directing USCIS to credit Mrs. Carr with additional credits for the deprivation of the rights of citizenship to include the rights for close family members to seek immigration authorizations as well as the right to vote and such. As it is not possible retroactively grant Mrs. Carr the right to vote and others rights of being a U.S. citizen (such as the right to visit Europe without a European visa) the family members should be credited with twice the delay in her citizenship, i.e. their position in the queue for immigration visas should be

adjusted as if their application was received earlier. The doubling of their credit in queue position corrects not only the delay in their application but also they get their citizenship rights (e.g. voting) earlier in compensation for the deprivation of Mrs. Carr's citizenship rights (e.g. voting). For Mrs. Carr the computation of the credit for family members immigration should be based on the delay in citizenship which should be from 13 Nov 2021 to the date when her Certificate of Citizenship is actually given to her. The 2021 is used because that is the earliest date that Mrs. Carr was eligible to become a citizen and is in recognition of the unwarranted challenges and barriers USCIS placed on her citizenship. Indeed Mrs. Carr would have become a citizen on that date had USCIS permitted it.

Credit for Extraneous I-751 Fees

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. This credit can be used for future services with USCIS for herself, her family, Mr. Carr's family, or Mr. or Mrs. Carr's friends.

Review of Other I-751 and N-400 Records

23. Directing that USCIS databases should be queried for all I-751 records processed since 1 Jan 2018 to determine how many other records were similarly falsified. In particular, how many I-751 applications by quarter were approved but with no permanent resident card or Certificate of Naturalization issued within 90 days.
24. If the identified applicants are found to have a statement in the I-751 approval that the corresponding N-400 had been approved then these applicants should be issued a Certificate of Naturalization as soon as possible if they have not already been issued said certificate.
25. All such applicants should be similarly credited for future services with USCIS for their use, their families use, or their friends use for the cost of the I-751 application fee. In addition, any relatives who apply for immigration visas based on their citizenship status should be credited with double the time of the original applicant's delay. The delay is computed to be from the date of the I-751 claim of N-400 approval to the actual date of issuance of a Certificate of Naturalization.
26. If the number of applicants and immigration credits are so large as to substantially impact current immigration queue members, USCIS is directed to apply to Congress to get

sufficient additional slots for each country so as to preserve the integrity of the queue for that country.

Falsified Records Must Be Corrected

27. Further, all falsified records should be deleted (actually hidden to avoid potential database corruption) with new records of a falsified record being inserted at the same date and time of the deleted/hidden record. There should be an additional corresponding record at the current date and time which includes the content of the falsified record for later review.
28. All reports to Congress and other entities which relied on these falsified completion records must be revised to note the number of records which were previously recorded as processed, but were actually pending correction of the false resolution. The corrected resolutions should be added to current reports as approvals from previously denied falsified records (a new category).

Adjustments for Language / Cultural Differences

29. Just as USCIS has added exemptions for people with medical impairments, as well as exemptions based on age, USCIS is directed to extend these exemptions to consider the education opportunities presented to a particular individual before they were 21. They should also be extended to consider the difficulty in mastering English based on the nation of birth.
30. For example, there could be an annual review by country of the rate of application for citizenship as well as the rate of granting citizenship. Exemptions should be granted to individuals from countries like Thailand where mastering English is extremely difficult for those who are older and poorly educated. The exemptions should be granted based on age less years of formal training in English before they were 21 and sufficient to correct the rate of citizenship approvals to match those of countries such as Canada or the United Kingdom where the rate of granting citizenship is, presumably, highest.
31. The approval rate would be the number of approvals from a particular country divided by the number of permanent residents from that country who are eligible to apply for citizenship, not the number who actually apply. It is expected that there will be a large backlog of residents form Buddhist / Muslim countries who would like to be citizens but did not apply because the English and Civics test was too difficult for them to pass based on their lack of exposure to English in their youth.

32. For countries such as Thailand and other Buddhist / Muslim countries, this would likely mean eliminating the English and civics test for all N-400 applicants for a few years until the rate of granting citizenship matches that of Canada or the United Kingdom. This would be a valuable correction to eliminate the past unlawful discrimination against certain groups based on religion, race, culture, and age.

USCIS Must Correct Time For Legal Notice

33. USCIS be directed to allow more time for timely notices of actions. If USCIS wishes to update its notice process to record and publish accurate records of the actual date of mailing of notices, 7 days could be added to the actual date of mailing for notices. Three days for first class mail is insufficient to be confident of prompt receipt.
34. As it generally takes USCIS 6 days to print a notice and prepare it for mailing, this would normally be 45 days after the date of the decision itself to allow for unforeseen delays in processing before and after mailing.
35. Of course, any denials based on assumed notice without an accurate record of delivery (signature required mailing or process server), would be conditional and must be easily contestable in the event that there was not actual timely delivery. The applicant must be able to contest the denial without any additional fees by explaining any extenuating circumstances which prevented timely notice or appearance (e.g. applicant was in the hospital and did not receive the notice or was not able to appear or answer while hospitalized).
36. For all cases where USCIS denied an application for failure to appear and there was not 45 days notice nor any record of the actual date of mailing, all such actions since 1 Jan 2018 must be remanded to USCIS for proper processing overturning all denials where there was not proof of timely notice.
37. The applicant must be given a credit for the filing fees for the original application as well as having the application opened again for proper consideration. All denial records must be updated to note the denial was overturned due to lack of notice. All reports to Congress and others which were based on the improper denial (showing an application was processed) must be corrected to show that the application was incorrectly denied and has been returned to an active status.

Adjustment of USCIS Fees for Appeal, Reconsideration

38. USCIS fees for N-336 requests to review, motions to reconsider, notice of appeal, and actual appeal filing must be reduced so that they are not prohibitive. It is suggested that no motion to argue or motion to reconsider should cost more than 5% of the federal district court filing fee (now $350, hence no more than $17.50). Actual appeal filing fees should not exceed half the district court filing fees, e.g. $175. There must be no fee for N-336 and other motions to reconsider when the applicant is contesting presumptive / conditional denials for failure to appear as the applicant must be provided the opportunity to explain failures in actual notice or extenuating circumstances which prevented appearance or answering (e.g. hospitalization).
39. The justification for this is to encourage applicants to seek redress with the USCIS rather than going directly to the district courts. It also furthers due process by making the proceedings fair and providing opportunities for applicants to be heard / argue their cases as necessary.

USCIS Must Restore Interview Waivers and
Cease Criminal Background Reviews for I-751 Applications

40. The administrative policies implemented by the prior USCIS director in the 2018 time frame must be rescinded. They do not provide any improvement in enforcement and greatly harm applicants' rights in these matters. They are also in direct violation of the waiver or interview within 90 days requirement explicitly stated in 8 CFR Section 216.4(b)(1) and cited above.
41. Mrs. Carr is requesting that interview waivers be resumed at an accelerated rate so that at least 2 months of backlog are eliminated each month. Realistically that means that three months of applications must be granted their permanent resident card each month without the optional interview and without further delay.
42. This should eliminate the current illegal four year backlog within two years.
43. Once the backlog is reduced to three months the accelerated approvals can be eliminated and mandatory approvals without interview will only be for those applications which have languished in the queue for up to three months and the total number of pending applications exceeds the number of new applications.
44. If there are concerns about applicants not understanding the criminal background questions in English, USCIS can provide written copies of the criminal background questions

translated into all the appropriate languages. However, these questions should only be applied to new applicants for immigration visas, not approved permanent residents.

45. USCIS should immediately begin with interview waivers for the oldest applications, but if USCIS wishes, it can send out new forms to potential waiver recipients asking for authorization to access all of their social media, mobile and credit rating records for both spouses. Failure to provide authorization or the appropriate accounts and addresses would result in a delay of any interview waivers. All applicants who authorized full electronic access to their records could be granted waivers before applicants who did not provide such access though the delay in the scheduling of an interview is restricted to 90 days in 8 CFR Section 216.4(b)(1) in all cases.
46. Over time, USCIS could develop AI programs which very accurately identify fake marriages based on the contents or lack of social media and other records. Given the vast amount of information available through phone records (e.g. Google's timeline which could show the location of each spouse for every day and night of their purported marriage), social media and credit histories, the interview itself appears to be a highly ineffective and very expensive method of identifying fake marriages. A well trained AI program could identify fake marriages with substantially greater accuracy at a fraction of the cost of interviews.

Required Access Provided to Applicants

47. USCIS must immediately disable hang ups by the automated phone system and instead fail over to a human representative. Further, USCIS must send notices to all active applicants of the address where they can go without any appointment to ask questions and raise concerns. USCIS must respond to in person questions, concerns and requests.
48. Secure messaging systems are now relatively routine technology and should be offered as an addition to the MyUSCIS web page to provide a more reliable and cost effective alternative for those applicants who choose to use this option. It is absurd to require technically savvy applicants or their representatives to navigate the lengthy automated phone system to get to speak to a person who will reduce their input to 80 characters at great expense to USCIS and great information loss from incomplete or inaccurate transcription.

USCIS Must Guarantee Applicants' Right to Representation

49. USCIS must grant immediate approval to any spouse who files to become an applicant's representative. Further, the application form itself must be adjusted to allow that option on

the application itself.

50. Pending I-751 applicants must be notified immediately of their ability to add their spouse as a representative via a simple phone call.

More Expansive FOIA Responses

51. USCIS must change its defaults for FOIA requests to provide access to every record including audio and video recordings which reference the requested receipt number.

DHS OIG Corrections

52. Directing DHS OIG to ensure that it promptly investigates and reports all federal crimes as described above. Further, while the decision to prosecute resides solely with the DoJ, the DHS OIG needs to ensure that serious malfeasance such as depriving foreign nationals of their constitutional rights is promptly investigated and corrected. Further, the DHS OIG must ensure that appropriate and timely redress is provided to injured parties.
53. For example, if a foreign national is unlawfully stranded overseas, the DHS OIG must ensure that the offending agency corrects the defect promptly, perhaps sending a PDF file with the required extension letter via email to the stranded party in time to not hinder their travel plans. The 23 Jan 2023 approval of a 48 month extension letters was too late and was not provided to the injured party in this case.

DoJ Corrections

54. Directing the DoJ to investigate and track all plausible allegations of federal crimes as necessary to insure that the criminal behavior is not repeated and that injured parties receive appropriate redress. It is acceptable for local OIG's or even local management to complete the bulk of the investigations as long as the DoJ monitors the results and does not forego the option of criminal prosecution until adequate remediation is put in place to prevent future crimes and redress is provided to all injured parties.
55. Directing the DoJ to investigate all failures of OIG's to expeditiously report plausible federal crimes to the DoJ as described above. Any failures to report federal crimes must be investigated as potential 'obstruction of justice' crimes though prosecution remains the purview of the DoJ and the threat of prosecution should be used as a cudgel to insure future adherence as well as redress when appropriate.
56. Granting the Plaintiffs such additional relief as the interests of justice may require, together

with their costs and disbursements in maintaining this action.

Respectfully submitted,

Verification of Complaint

We the undersigned Plaintiffs hereby affirm under penalty of perjury in both the United States and Thailand that as individuals:

1. I have reviewed the allegations and believe all of the allegations 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 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: 27 Mar 2024
Location: Irving, TX

/s *Air Carr*

Rueangrong Carr
1201 Brady Dr
Irving, TX 75061
Date: 27 Mar 2024
Location: Irving, TX

/s Buakhao Von Kramer

Buakhao Von Kramer
105 - 3 M 5 T YANGNERNG
SARAPEE, CHIANG MAI 50140 THAILAND
Date: 27 Mar 2024
Location: Irving, TX

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

CERTIFICATION OF ELECTRONIC SIGNATURES

In accordance with TXND LR 11.1(d), on the recorded date I received permission from Mrs. Carr and Mrs. Von Kramer to sign this document electronically on their behalf after having provided them with the relevant sections of the document in English and translated into Thai (relying on Google Translate). We then discussed the documents in English (as Google Translate does always provide meaningful translations) and the only concerns about accuracy was Mrs. Von Kramer's concern that the document specifies precise dates and times for the various visa interviews and she really does not remember that level of detail about those events (several years ago).

I assured Mrs. Von Kramer that the dates and times were established from the electronic records of the appointment (e.g. the official appointment document to allow applicant entry into the consulate) which I had retained. I explained that her signature does not indicate she remembers the interviews being on that date at that time but rather that she has no knowledge or recollection to the contrary. She does remember interviews of that nature in that time frame.

In turn, I must qualify that almost none of the details in this now sworn statement (no longer allegations) were based on my recollection but rather careful review of electronic records which I have retained and maintained and which I believe to be accurate.

/s *Brian P. Carr*

_____

Brian P. Carr
1201 Brady Dr
Irving, TX 75061

Date: 28 Mar 2024
Location: Irving, Texas

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 Motion for Sanctions Certificate of Conference - OPPOSED

Motion For Sanctions

Meritless Pleadings and Other Improper Antics

Have Resulted in Excessive Delays

Proper service with USATXN was completed on 9 Jan 2024 with an initial response date of 9 Mar 2024. However, due to various delaying tactics by Mr. Padis the required response date has been delayed until May 14, a delay of 66 days.

This Motion for Sanctions is based on 28 USC section 1927, FRCP Rule 11(c)(2), FRCP Rule 11(c)(3), FRCP Rule 56(h), 18 USC section 1621, TXND LR 83.8 (b)(3) through 'Unethical Behavior', Texas Disciplinary Rules of Professional Conduct (ECF 30-2)[1] Rule 4.01 'Truthfulness in Statements to Others' and 18 USC Section 1001 (falsification of government records). These statutes and rules cover

1 TDRPCEffective013122.pdf in ECF 30-2 is a copy of the Texas Disciplinary Rules of Professional Conduct retrieved from https://www.texasbar.com/ but the link used to retrieve the document was a dual party link with built in redirection which makes the link intrinsically unreliable and not robust. Such links are not archived in the various web archives making the validity uncertain.

pleadings as well as government records and give the court wide latitude in determining sanctions.

This motion will address the Motion to Dismiss (MTD) submitted by USATXN on 08 Mar 2024 as well as an email exchange Mr. Padis initiated prior to submitting the MTD. There are supporting affirmations to support certain common themes which are expected to be referred to in other similar Motions for Sanctions for other pleadings by USATXN.

Need For Creative Alternatives in Sanctions

It will be shown that Mr. Padis (USATXN) has taken several sanctionable actions, but there was no apparent malicious intent, only taking ill-considered shortcuts in struggling with an excessive caseload. However, such actions seem widespread and the court is asked to consider creative sanctions to discourage such behavior in the future.

In particular as 'costs' are particularly ineffective with government agencies and pro se parties, community service and 'early' filing requirements are suggested in such cases as elaborated in Mr. Carr's Affirmation ECF 30-3 attached to this motion (CreativeSanctions.pdf).

Mr. Padis Unethical Behavior Seeking Delays

In an exchange of emails with Mr. Carr, Mr. Padis made false statements which violated TXND LR 83.8 (b)(3) through 'Unethical Behavior' and Texas Disciplinary Rules of Professional Conduct (ECF 30-2) Rule 4.01 'Truthfulness in

Statements to Others' and 18 USC Section 1001 (falsification of government records).

It is argued that the underlying purpose of false statements were to delay this proceeding. This is discussed in depth in the attached affirmation of Mr. Carr, ECF 30-4, AttemptedDelayTrick.pdf. Sanctions of 10 hours of community service and 3 days of early filings are recommended though, obviously, the court has total discretion in this regard.

Citing 'Not Precedent' Cases De Facto Grounds for Sanctions

It appears to be moderately common for Mr. Padis and, perhaps, other attorneys to cite cases which explicitly state 'should not be published and is not precedent', e.g. Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018). Plaintiffs suggest that ignoring the courts clear guidance for precedent is De Facto negligence and shows a lack of due diligence.

Further, it is argued in the attached affirmation of Mr. Carr ECF 30-6 CiteNotPrecedentCase.pdf that the court implement a new precedent (or even additional Local Rule) declaring normal / routine creative sanctions of community service and early filings when cases are cited even though they are clearly identified as 'not precedent' with the result in this matter of 16 hours of community service and 2 days of early filings.

Mr. Padis' Motion to Dismiss Totally Without Merit

In Plaintiffs' Response (ECF 18) to Defendants' Motion to Dismiss (ECF 15), each of Mr. Padis' Arguments is dealt with in detail. Instead of repeating these rather lengthy responses they will be summarized herein citing the relevant sections of each document.

Introduction Has Several False Statements

Money Back Falsely Claimed to Support Sovereign Immunity

On Page 1 of ECF 15, Mr. Padis falsely claims 'Plaintiffs seek money back from the United States Postal Service (USPS)'. While there are several places where Plaintiff seek credits for future services this is an example where Mr. Padis invents an imaginary complaint where he can cite 'Sovereign Immunity', but in the actual complaint Plaintiffs seek credits for future services which is clearly supported in Marbury v. Madison (1803) and APA 5 USC section 702.

Separate Counts Falsely Mixed Up to Create Nonsense

Actual Relief is Increased Reporting and Monitoring

Mr. Padis then goes on to say that Plaintiffs seek a:

> court order mandating that various federal agencies including the U.S. Department of Justice initiate criminal investigations into the circumstances surrounding their various attempts to obtain immigration benefits, including naturalization for Mrs. Carr and a non-immigrant visa for Mrs. Von Kramer.

This is false and another case where Mr. Padis is addressing an imaginary complaint which has nothing to do with the matter at hand.

In Counts 2, 5, 6, 8, and 8' (the second count 8, likely to be renumbered as Count 9 if there is another Amended Complaint to correct typographical and clerical errors and to conform to the evidence) it is sought to have the OIG's and CIGIE report plausible allegations of crimes to the DoJ. They are not required to investigate anything and can refer matters to local management after reporting them to DoJ. Local management can resolve the issues in the normal fashion.

There are no explicit requirements that local management investigate but OIG's and DoJ are required to monitor the results to insure that future crimes are prevented and appropriate redress is made to injured parties. DoJ is given absolute discretion on the decision to prosecute and is encouraged to use the threat of prosecution as a cudgel to prevent future crimes and provide redress to injured properties as appropriate.

In reality, Plaintiffs are expanding on a well established principle that no federal agent is permitted to commit federal crimes or infringe on the constitutionally protected rights of individuals. Further no federal agent can grant immunity preventing consequences for future crimes or future infringement on the rights of others. This is not a new restriction on executive discretion as there never was any such discretion.

Further, the rather lengthy descriptions of required actions carefully and clearly do not infringe on the DoJ discretion to prosecute which is reserved exclusively to DoJ (and for good reason).

To simplify the requested limits on OIG and DoJ discretion with respect to

plausible allegations of federal crimes:

* OIG must either
  - investigate and report as necessary to DoJ **OR**
  - report the matter to DoJ and refer the matter (likely to local management) and monitor and report the results
* DoJ must either
  - investigate and resolve the matter **OR**
  - refer the matter (to OIG, local management, or another party) and monitor the results to insure future violations are discouraged and redress of victims is encouraged.

  DoJ may also use the threat of prosecution as well as actual prosecution to insure appropriate compliance
* Local management and other referred parties may process the matter in the normal fashion in accordance with the guidance of DoJ (no investigation is mandated though some form of investigation could be required by DoJ at its discretion).

In light of the simplified flow above, Mr. Padis' restatement 'mandating that various federal agencies including the U.S. Department of Justice initiate criminal investigations into ' [a preposterously restricted set of plausible allegations of federal crimes] is false and misleading.

Criminal investigations implies prosecution which is explicitly reserved to the discretion of DoJ. Further no investigations are mandated as there is always the executive discretion to refer the matter (likely to local management) where the

form of resolution is subject only to DoJ monitoring and review. The DoJ may require some level of investigations by local management but that is left to DoJ discretion as long as future violations are prevented and redress is provided as appropriate. The court would not be mandating any criminal investigations.

Given the USPS OIG 2017 audit (see ECF 18-7 DR-AR-18-001) finding 1.9 million falsified delivery times (out of the 25.5 million scans) and the fact that no substantive corrections have been made since the audit report (this problem has persisted for over a decade), substantial corrections are clearly necessary and DoJ guidance is required.

In the case of a plausible allegation of a false statement in a government email, there would be no substantive change at all. Local management could conduct appropriate inquiries but this is really no different than normal administrative procedures and local management could require additional training or something similar as the resolution. The proposed court 'mandate' would only require proper reporting to the appropriate OIG and DoJ (and possibly actual AG office in certain cases) and their monitoring of the results.

The focus of Plaintiffs' relief is clarification of OIG requirements to report plausible allegations of federal crimes (already required by statute) and DoJ to monitor and review resolutions.

With USPS, the USPS OIG has already demonstrated that there is a substantial problem with falsified records (delivery times) so the increased involvement of the OIG and DoJ are justified. The resolution could be as simple as implementing the

recommendations of the USPS OIG (now with DoJ input and requirements for proper resolution) with no additional criminal investigations. USPS profits could suffer and there could be reduced USPS management bonuses but to the degree that those results are built on falsified records that could be a good thing.

With discovery it is expected that similar widespread violations of due process will be found with DoS visa applications and USCIS I-30, I-751, and N-400 applications (and the intrinsic falsified records from decisions which don't conform to the evidence). In that case there will likely be substantial input from both the OIGs and DoJ, but the result will be mostly about insuring that the revised procedures are correct from a constitutional and statutory requirements perspective.

It is incumbent on the Plaintiffs to demonstrate standing for any relief sought (how they were damaged by the Defendants' failure to perform). However, Mr. Padis falsely claims that the relief sought is directed exclusively to those specific damages when, in fact, the Plaintiffs are seeking broad solutions to widespread problems not the absurd:

> initiate criminal investigations into the circumstances surrounding their various attempts to obtain immigration benefits, including naturalization for Mrs. Carr and a non-immigrant visa for Mrs. Von Kramer

The Plaintiffs are deeply concerned about much more serious problems such as the Agfhan Fiasco (see Response, ECF 18, pages 36 to 40) but the Plaintiffs have no standing in that specific failure. The broad relief sought does address the wider problems to include the Afghan Fiasco as well as helping to insure that Seal Team

6 will never be used to assassinate federal judges or federal attorneys.

Sovereign Immunity cited Based on False Categorization

Mr. Padis goes on to claim:

> Because Plaintiffs cannot meet their initial burden to identify an applicable waiver of the federal government's sovereign immunity, the Court should dismiss Plaintiffs' entire complaint

which is another example of Mr. Padis making broad claims which are completely false as every relief sought is carefully worded to avoid 'sovereign immunity'. For example Plaintiffs never ask for 'money back' but instead seek credits for future services as described above and which will be elaborated further in great length. There are three fundamental causes of action and Mr. Padis 'denies' the first USPS cause of action by creating the imaginary 'money back' claim.

Mr. Padis' 'Background' Misleading

Picks Out Irrelevant Details and Omits Fundamental Allegations

Ignores Mrs. Carr Visa Denial, No Due Process

In section I, Background on page 2 of ECF 15, Mr. Padis cites irrelevant details concerning Mrs. Carr immigration visa but ignores foundational statements such as Mrs. Carr's non-immigrant visa being denied in 2018 without due process (DoS did not permit Mrs. Carr to present the evidence she had prepared) in the Complaint (ECF 11-1 and 29) paras 65 - 68.

It is misleading for Mr. Padis to cite irrelevant details and omit critical facts. This is particularly important as this visa denial was to the spouse of a U.S. citizen which is one of the well established exceptions to the offensive (to the plaintiffs) Doctrine of Consular Non Reviewability (DoCNR) which denies Due Process to aliens on the false premise that they are not people (? animals ?) unless they are the spouse of a citizen. Clearly Mr. Padis is just trying to confuse the court with extraneous and misleading claims in order to create delay.

By omitting references to Count 3, Mr. Padis seeks to remove the foundation to the second cause of action against DoS, but just because there is no Count 3 in Mr. Padis' imaginary complaint, the actual complaint demonstrates DoS failure to provide statutory mandated non immigrant visa decisions based on due process to spouses of U.S. citizens.

Ignores Lack of Due Process in Mrs. Von Kramer's Visa Denials

Mr. Padis mentions the denial of Mrs. Kramer's non immigrant visa application in 2019 citing only ECF 11.1 and 29 para 90 but ignores that the denial clearly violated Mrs. Von Kramer's right to Due Process as the interviewer claimed the denial was based on 'lack of firm travel plans' even though he did not give Mrs. Von Kramer the opportunity to present any evidence which would have included flight tickets and an invitation from Mr. Carr covering accommodations for the 2 weeks. ECF 11.1 and 29 para 90 - 109.

Indeed Mrs. Von Kramer's three non immigrant visa denials provide an ideal opportunity for the Plaintiffs to challenge the offensive (to the Plaintiffs) DoCNR

while still correcting the underlying lack of Due Process in such visa processing based on Mrs. Carr's denial. It is quite legitimate for Mrs. Von Kramer to challenge DoCNR based on ECF 11-1 para 121 and 167.

Mr. Padis supports claims of failure to state a claim but that is only true in his imaginary complaint where all the required elements are not well pled. In the actual complaint all the required elements are well pled and Mr. Padis transparent effort to create confusion by ignoring relevant statements indicates that Mr. Padis' primary goal was to delay not to resolve issues.

Ignores USCIS Failure to Provide Required 10 Year Green Card
Mrs. Carr Stranded in Thailand

A particularly egregious example of this is Mr. Padis' ignoring of Mrs. Carr I-751 application on 04 Aug 2020 to have the conditions on her 2 year green card removed and receive a 10 year green card. Instead of issuing Mrs. Carr a ten year green card within 90 days as required by law, USCIS sent her temporary extension letters which finally left her stranded in Thailand in Nov 2022, unable to return without getting a non immigrant visa. See ECF 11.1 and 29 para 147 - 163.

Just because Mr. Padis doesn't mention critical elements does not mean they don't exist. Here Mr. Padis is trying to eliminate the third cause of action against USCIS by just pretending that the required elements are not in the complaint. However, Mr. Padis omission of critical elements does not demonstrate any fault in the actual complaint, it just demonstrates that Mr. Padis is attempting to confuse and delay, wasting the Plaintiffs and courts time.

10 Year Green Card and Citizenship Approved, Nothing Provided by USCIS

The most egregious omission by Mr. Padis is his ignoring the USCIS decision of 30 Jan 2023 which stated:

> We have approved your I-751, Petition to Remove Conditions on Residence. Our records also indicate we have approved your Form N-400 Application for Naturalization. Because we also approved your N-400, you will not receive a new Permanent Resident Card (also known as a Green Card). Instead, once you have taken the Oath of Allegiance, you will receive a Certificate of Naturalization, which will be proof of your U.S. citizenship.

See ECF 11.1 and 29 para 163, ECF 10-5.

Mrs. Carr's 10 year green card was approved along with her N-400 citizenship. However, USCIS never provided Mrs. Carr with a ten year green card and never scheduled the Oath of Allegiance or provided the Certificate of Naturalization, ECF 11.1 and 29 para 164 - 209

As a result, Mrs. Carr has no documentation of her permanent resident status. All previous USCIS documentation is expired. See:

ECF 24-1 Mrs. Carr Permanent Resident Card, redacted, expired 13 Nov 2020
ECF 18-6 USCIS 24 month extension letter, expired 13 Nov 2022
ECF 20-2 USCIS A-551, expired 2 Jan 2024

Mrs. Carr can not work or travel freely and, in light of Texas SB4 (which was in effect for four hours and is still pending) is afraid of being deported without notice or cause by ICE, National Guardsmen sent into blue counties to deport illegals or

even vigilantes (Texas SB4).

Further, while her citizenship was approved over a year ago, she still can not vote or help her son find better work (Thailand is still suffering from the Covid closures) all of which is in violation of USCIS responsibilities under the INA. Mr. Padis can not claim ignorance of these facts as they were called out in the early email exchange in ECF 28-1 (Redacted Email Thread 1 Mar 24 to 18 Apr 24) where Mr. Padis lied (falsified a government record) trying to trick the Plaintiffs into a delay as explained in ECF 30-4.

USCIS has clearly failed to perform its required duties under the INA and there is a compelling case for relief, but Mr. Padis callously makes false (failure to state a claim) and misleading statements (omitting critical details like the N-400 approval above).

It is clear that Mr. Padis is simply creating meritless delays without regard to the impact on the court and other parties.

False Claims of Sovereign Immunity

In II A on page 3 of USATXN Motion to Dismiss (ECF 15), Mr. Padis raises the bogus claim of Sovereign Immunity which has no bearing on the actual complaint in this matter (ECF 11.1 and 29) as every relief sought is clearly beyond the scope of Sovereign Immunity and in accordance with Marbury v. Madison (1803) and APA 5 USC section 702.

This is described in great depth in the in Plaintiffs' Response (ECF 18) to Defendants' Motion to Dismiss (ECF 15) pages 1 to 4 which won't be repeated here but can be reviewed by interested parties as necessary.

This specious and spurious claim of Sovereign Immunity is just another example of how Mr. Padis omits important facts and makes false and misleading conclusions all in the interest of confusing the court and justifying further delay.

False Claims Lack of Pleading Standard

In II B on page 4 of USATXN Motion to Dismiss (ECF 15) Mr. Padis relies on his intentionally misleading summary of the over 250 allegations in the Complaint to conclude that there are no allegations to support the requested relief. However, it is clear that Mr. Padis knew that Mrs. Carr had been stranded in Thailand as a result of USCIS unlawful delay in adjudicating her I-751 (mandated to be within 90 days in INA) for over two years.

Further Mr. Padis knew that Mrs. Carr now had no documentation of her permanent resident status at this time and could no longer work or travel freely and risked being deported at any time in these troubled times. He also knew that USCIS had approved her N-400 application for citizenship and was unlawfully denying her fundamental rights as a citizen to vote and assist her son in seeking better employment.

His intentional omission of these critical facts from his summary does not indicate that they weren't there, it just shows that Mr. Padis was simply trying to delay with

meritless pleadings that have no bearing on the matter at hand.

A. Absurd Claim of Sovereign Immunity

In III A on page 5 of USATXN Motion to Dismiss (ECF 15) Mr. Padis makes the absurd claim Sovereign Immunity protects DoJ and OIG from their statutory duties to investigate, refer, report, and monitor plausible allegations of federal crimes.

The absurdity of this claim is discussed at length In Plaintiffs' Response (ECF 18) pages 4 - 6, but Mr. Padis would have us believe that DoJ and OIG can allow other government agencies to commit crimes with impunity and there is nothing the courts can do to reign in this 'executive discretion' gone wild. To be clear, the Plaintiff's believe that it is never acceptable for any government agent to order Seal Team 6 to assassinate federal judges or federal attorneys and no other agency (OIG or DoJ) can permit such crimes to made with impunity.

Falsifying government records are clearly less serious crimes, but lesser options of referring the matter to local management to resolve the problem is an acceptable alternative as long as it is reported to and monitored by the applicable OIG and DoJ.

B. Challenge to USPS Jurisdiction False and Misleading

In III B on page 5 (ECF 18) challenges USPS jurisdiction but misconstrues the facts and law in the matter. It is totally without merit as is discussed in length in pages Plaintiffs' Response (ECF 18) pages 6 - 8 which explains how a falsified

delivery time and broken business processes damaged Mr. Carr and entitles him to seek credit for future services. Mr. Padis is simply making specious and spurious arguments in the hopes of delaying and confusing. Given Mr. Padis' demonstrated desire to delay this should be recognized as another candidate for sanctions.

C. Exhaustion of Remedies Misapplied

Mr. Padis states the Exhaustion of Remedies Doctrine as if it were an absolute authority but in fact it is one of many factor for the court to consider. In this case it is inapplicable as the Plaintiffs already sought relief from the USCIS N-400 denial from the court under the INA within 120 days so it unclear why the request would not fall under 8 USC 1421(c) (part of the INA). Of course the court could also simply address USCIS prior approval of the N-400 application on 31 Jan 2023 and require the USCIS to fulfill its obligations on approving the I-751 and N-400. However, to clarify the amended complaint (ECF 29) explicitly cites 8 USC 1421(c) rather than just the INA.

D. Visa Denials Not Discretionary

Mr. Padis goes on to challenge the DoS visa denial claims as if they were discretionary citing Aguilera v. Holder, 354 F. App'x 882, 884 (5th Cir. 2009). However, non-immigrant visas are governed by clear statutes and the denial cited a particular statute as the justification for the denial. Mr. Padis' claims are completely baseless as is described in depth in Plaintiffs' Response (ECF 18) pages 12 - 13. It should be noted that Aguilera includes the statement that it is not precedent and there is no explanation for its use. As such it should incur minimal

additional sanctions as described in ECF 30-6, CiteNotPrecedentCase.pdf, for citing a decision which was not precedent.

D. Doctrine of Consular Non Reviewability (DoCNR)

The Complaint had two claims against DoS for failure to provide Due Process in their 4 visa denials to Mrs. Carr (2018) Mrs. Von Kramer (2019). Count 3 exclusively dealt with DoS lack of due process in denying Mrs. Carr's visa (ECF 11-1 para 59 - 83), but Mr. Padis completely ignored that Count, perhaps because exceptions to DoCNR are well established for spouses of U.S. citizens.

Further, in ECF 11-1 para 121 and 167 refer to unconstitutional restrictions made on foreign nationals (as in DoCNR) which the Plaintiffs intend to challenge. This is elaborated at great length in Plaintiffs' Response (ECF 18) pages 13 - 22 where the Plaintiffs elaborate on the challenges to DoCNR they intend to bring but the foundation of those novel and untested challenges were already laid out in the complaint (ECF 11-1) para 121 and 167.

It was not proper for Mr. Padis to include DoCNR in the MTD as novel and untested challenges are permitted at this stage of litigation and the foundations of that challenge were already present in the Plaintiffs citing historical prejudice against aliens (such as the 1882 Chinese Exclusion Act) and the offspring of such offensive (to the Plaintiffs) policies in the form of DoCNR.

E. Frivolous Allegations

This is the most egregious of Mr. Padis arguments. He describes all the allegations as Frivolous based solely on allegations which 'infer conspiracy and false documents from administrative delays'. The first half of the argument is just quotes from Starrett v. Lockheed Martin Corp. et al., 735 F. Appx 169, 170 (5th Cir. 2018), another not precedent decision which warrants sanctions on its own.

The problem is there are no allegations in the complaint which 'infer conspiracy and false documents from administrative delays' as shown in Plaintiffs' Response (ECF 18) pages 41 - 50.

Mr. Padis has informally offered to withdraw Argument E and the description of frivolous allegations but it was more than 21 days after notice and he has not actually withdrawn it under FRCP Rule 216(c) (which would have been an UNOPPOSED motion).

However, that does nothing to alleviate the delay created by the meritless Motion to Dismiss or the time wasted by Mr. Carr and the court in refuting and reviewing the MTD.

Nature and Amount of Sanctions Requested

It took Mr. Carr roughly 140 hours preparing the Response to Mr. Padis meritless Motion to Dismiss (MTD) and associated papers which adjusts to 35 hours of community service for Mr. Padis. Of course if the court finds that some portions of the MTD had some merit, the court can adjust hours as it deems appropriate.

In addition the total delay from the MTD to the next response from USATXN is now 66 days so that figure is used as the number of days early filing for USATXN in this matter. Sadly that will likely be Ms. Owen but the Defendants have had the benefit of additional time to prepare in this matter and it will be incumbent on them to prioritize this matter.

In this case Community Service for Mr. Padis is particularly appropriate as he has callously ignored Mrs. Carr's plight of not being able to work and travel freely as she has no documentation of her permanent resident status. This is particularly difficult in times of the still pending Texas SB4 law to deport 'illegals' with unknown due process. Mrs. Carr is also wrongfully being denied her rights as a citizen to vote and, of importance to her, help her son seek better employment opportunities. These also justified early filings for the Defendants until some relief is provided to Mrs. Carr.

In addition to the above, it took Mr. Carr about 32 hours to prepare this Motion for Sanctions which results in an adjusted 8 hours of Community Service.

It should be noted that there will likely be additional Motions for Sanctions for later filings by Mr. Padis but that will only result in additional Community Service hours as the cumulative early filing days is already covered in this motion.

As such sanctions are requested as follows:

CS	EF	Relevant Pleadings / Interaction
10	3	Email Interactions Prior to Initial Motion to Dismiss
16	2	Citing Two Decisions which are 'Not Precedent'

35 |60 | Delay from meritless Motion to Dismiss and time spent defending
8 |NA | Time preparing first Motion for Sanctions

CS Community Service Hours Required

EF Number of days for Early Filing Required

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 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: 8 May 2024

Location: Irving, Texas

Certificate of Conference

This Motion for Sanctions is OPPOSED

The conference was held via an email discussion which is included as ECF 30-1, emailThread20240417to20240426.pdf, an email thread between USATXN and Mr. Carr from 17 Arr 2024 to 26 Apr 2024. It was concluded that this and all future Motions for Sanctions will be 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

On Fri, Apr 26, 2024 at 7:13 PM Brian Carr <carrbp@gmail.com> wrote:

Hi George, Emily,

I was disappointed in this morning's meeting that we weren't able to resolve any issues, but we did Confer as required by local rules. I would like to get the record straight for future certificates. Might even convert this email thread to a document to submit as an exhibit to each coming Certificate (and it sounds like there will be a few).

1) The government is aware of the imminent Motion for Sanctions and it is OPPOSED,

2) The government is aware that I object to any false or misleading pleadings by the government and reserves the right to restate or rephrase my pleadings without supporting references even if the result is false or misleading. This is based on Mr. Padis's experience that everybody does it so it must be OK and that restating and rephrasing has not been penalized by traditional sanctions (perhaps those two observations are related). The government is OPPOSED to all such Motions for Sanctions.

3) The government reserves the right for making its own 'Motion for Sanctions' for Plaintiff's Motions for Sanctions. For the record, Plaintiffs are OPPOSED to all such motions (no need for further conferences, parties can just cite these emails).

4) The government is OPPOSED to Plaintiff's anticipated Motion for Reconsideration of the recent court order in this matter.

5) The government is not interested in the opportunity to depose the Plaintiff's next week because the government has not familiarized itself with the Complaint (either version) or the certified documents in the record sufficiently in order to know what affirmed statements or certified documents need further clarification.

6) Mr. Padis's email on 1 Mar 2023 stating:

> the U.S. Attorney's Office has no record of having been served in this case. See Fed. R. Civ. P. 4(i)(1)(A) (requiring that among other things a party must deliver a copy of the summons and the complaint to the United States attorney).
> If you reply with a summons and a copy of the complaint, I will email you a letter confirming that I am accepting service on behalf of the U.S. Attorney.

was incorrect in that USATXN actually had a record of being served (on 9 Jan 2023 presumably) but the record indicated that it was served by Mr. Carr. After Mr. Padis confirmed that it was actually Mr. Joubert who served the papers Mr. Padis considered whether Mr. Carr's presence at the actual service event may have invalidated the proof of service. Mr. Padis decided that he could likely challenge the service as improper, but concluded that it wasn't worthwhile.

At this time I would like to pose a few hypothetical questions to Mr. Padis. If Mr. Carr had declared that he had delivered a copy of the summons and complaint on 9 Jan 2023 (which is exactly what Mr. Padis had misstated as the FRCP 4(i)(1)(A) requirements), would he have sent a letter accepting service on 9 Jan 2023 or the date he received the email? Was the emailed copy of the summons and complaint really useful or was Mr. Padis aware that he could retrieve the documents from ECF himself or that he or another member of USATXN such as caseview.ECF@usdoj.gov may have already retrieved the documents at some earlier date.

Anyway, thanks for taking the time to talk through these issues. Wishing you all the best,

Brian

********** Cross Email 26 Apr 2024 **********

On 4/26/2024 2:51 PM, Padis, George (USATXN) wrote:

> Brian,
>
> Thanks for taking the time today to confer about your contemplated motion for sanctions. I wanted to summarize what I believed to be the bases for your motion for sanctions from our call today:

1. My understanding from our call today is that you believe my characterization of your claims as demanding “criminal investigations” is misleading because you are calling for “investigations of potential crimes.”

> As expressed on the call, to call that misleading or a false statement would be slicing the baloney mighty thin. (I may have used an incorrect expression, like “slicing the bread too thin” but you got the gist.)

1. Then, I understood you found it misleading that we characterized your claims in the motion to dismiss as inferring a conspiracy and fraudulent documents from isolated administrative errors and delays. As I explained, this is well within the boundaries of permissible legal argument and a fair good-faith characterization of plaintiffs’ claims (although we appreciate you disagree).

1. Lastly, I believe you found an email I authored to be misleading because I indicated I believed that service was improper and offered to accept service on behalf of the U.S. Attorney. As discussed, I was under the impression that you had personally served a copy of the summons and the complaint in violation of

FRCP 4(c)(2) (requiring service be made by someone who is "not a party"), and I later learned through our correspondence that you delivered a copy of the summons and the complaint *together* with a process server—presenting an interesting legal question. Ultimately, the government filed a timely response to the complaint under Rule 12(b) rather than litigate this interesting service issue. Although my correspondence was not at all misleading, I do want to note that all of these discussions around service occurred over email and not in a pleading.

In sum, and as discussed on today's call, the above three points do not come close (taken separately or together) to meeting the high bar set by Rule 11 for sanctions. I warned you over the phone, and emphasize here again, that an unfounded motion for sanctions may itself be grounds for sanctions, which you acknowledged you understood.

Thanks again for your time on today's call. Emily will take it from here.

Best,

George

George M. Padis
Assistant U.S. Attorney
(214) 659-8645

From: Brian Carr <carrbp@gmail.com>
Sent: Thursday, April 25, 2024 12:29 PM
To: Padis, George (USATXN) <GPadis@usa.doj.gov>; Owen, Emily (USATXN) <EOwen1@usa.doj.gov>
Subject: Re: [EXTERNAL] Re: Carr v. USCIS et al. - Motion for Sanctions FCRP Rule 11(c)(2)

Hi George, Emily,

That would be super. I was also thinking it would be awesome if you guys could depose myself, Air, and Buakhao on Wednesday May 1, perhaps from 9AM to as long as you like (and you don't even need to provide lunch, we can bring our own and share). There is not a lot that we have to share but you could contact USPS,

DoS, USCIS, and SSA to see what they would like to know. I think the video recordings from USCIS and DoS would be more informative, but I am not sure if they exist. SSA could give you input on 'lawful presence' (probably not your specialty) and that might help them decide what position they want to take on them conducting the requested review (my impression is that they would prefer to be out of this matter as quickly as possible).

Wishing you the best,

Brian

P.S. If you want to do the deposition you could arrange to have a Thai interpreter present or available or we could rely on me to interpret as necessary and relying on google voice (if recorded that could serve as a measure of the usefulness of google voice and the need for an interpreter in the future).

P.S.S. We got lots of berries and are off to lunch at King Buffet, one of our favorites, but as it a buffet and we are older we don't go too often.

On 4/25/2024 9:15 AM, Padis, George (USATXN) wrote:

> We can do a call tomorrow at 9 am central. As I've assigned the case to Emily, I will leave it to her to state our position on the motion for reconsideration on tomorrow's call.
>
> Do you want to call my office line then?
>
> George M. Padis
> Assistant U.S. Attorney
> (214) 659-8645

From: Brian Carr <carrbp@gmail.com>
Sent: Thursday, April 25, 2024 9:05 AM
To: Padis, George (USATXN) <GPadis@usa.doj.gov>; Owen, Emily (USATXN) <EOwen1@usa.doj.gov>
Subject: Re: [EXTERNAL] Re: Carr v. USCIS et al. - Motion for Sanctions FCRP Rule 11(c)(2)

Hi Emily, George,

We are off to pick wild blackberries this morning as they won't be around for long (they are wild). Also, Buakhao will be heading home soon so we want to fit in all the fun stuff (and lawful presence activities) while we can.

However, I would also like to let you know that I expect to file a Motion for Reconsideration under the normal rule for interlocutory orders. As that is an 'other' motion I am seeking your position on that matter. OPPOSED would not surprise me. ;-)

Of more relevance, there will also be a separate motion for sanctions (of the creative variety, perhaps community service, for Mr. Padis) for your first filing. There will be separate motions for each filing which has not been withdrawn within 21 days and which has restatements of my statements, e.g. 'criminal investigations' which is a phrase that I have carefully avoided as it can be misconstrued or broad pejorative terms without specificity.

I understand your desire to restate my statements to make a point as my statements have a tendency to be verbose and tedious and possibly overly precise and accurate. However, I ask that if you want to claim we are seeking 'criminal investigations' only do so after quoting the original statement in its entirety, e.g. 'expeditiously investigate all plausible allegations of federal crimes' in the context of IG's and their statutory mandate to report all likely federal crimes or 'investigate and track all plausible allegations of federal crimes as necessary to insure that the criminal behavior is not repeated and that injured parties receive appropriate redress'.

I see those as big differences? Do you see the difference?

My problem with your restatement is that it is overly broad and could be misconstrued as requesting prosecution which in every case is NOT requested, but instead the THREAT of prosecution should be used as a tool / cudgel to promote future compliance. This challenges the DoJ classification of civil and criminal, but while DoJ certainly has executive discretion to organize affairs in that fashion, I am not bound by that distinction.

Further if you want to use such pejorative terms as 'frivolous' I ask that in every case you quote the applicable statement / claim in its entirety (putting the text in a footnote is OK, but the footnote itself will likely take up a substantial amount of space. I do not believe you will find anything that could be accurately described as 'fantastical' or 'delusional'.

Anyway, also please be advised that I intend to file a separate Motion for Sanctions about 21 days after each filing you make (Emily I guess) if there are any unfounded mis-statements or unsupported pejorative terms.

My suspicion is that after careful review that will be a substantial majority of every filing George has made to date. Emily, it will be interesting to see how well you can be conscientious in this regard. Neither of you have had the advantage of training by Professor Ira Goldstein of the MIT AI Lab (the best and finest prototypical paper mill) or 50 years of writing (typing to be precise and accurate) in a field that places a premium on accuracy.

How about 9AM tomorrow (Friday) morning?

Wishing you all the best,

Brian

On 4/24/2024 10:08 PM, Brian Carr wrote:

Hi Emily, George,

Sorry we were out running errands today. Tomorrow is errands again. Maybe Friday.

Brian

On 4/24/2024 11:18 AM, Padis, George (USATXN) wrote:

Hi Brian,

Do you have time for a call today with me and Emily to discuss your contemplated motion for sanctions?

Thanks,

George

George M. Padis|
Assistant U.S. Attorney
(214) 659-8645

From: Brian Carr <carrbp@gmail.com>
Sent: Tuesday, April 23, 2024 9:26 PM
To: Owen, Emily (USATXN) <EOwen1@usa.doj.gov>
Cc: Padis, George (USATXN) <GPadis@usa.doj.gov>
Subject: Fwd: Re: [EXTERNAL] Re: Carr v. USCIS et al. - Motion for Sanctions FCRP Rule 11(c)(2)

Dear Ms. Owen,

Welcome aboard. I am confused as to what '**Substitution of Counsel by AUSA. Emily Owen-DOJ added as AUSA. (Owen-DOJ, Emily)**' Does that mean you will be lead counsel for this matter? Are you in DC (DOJ)? Will you be mostly representing DoJ in this matter? Can you give me a response as to the DoJ position about a Motion for Sanctions (presumably against Mr. Padis) if it is filed after USATXN files an Answer? OPPOSED would be a fine answer (and is the expected answer).

Thanks for your response,

Brian

-------- Forwarded Message --------

Subject: Re: [EXTERNAL] Re: Carr v. USCIS et al. - Motion for Sanctions FCRP Rule 11(c)(2)

Date: Mon, 22 Apr 2024 20:05:39 -0500

From: Brian Carr <carrbp@gmail.com>

To: Padis, George (USATXN) <George.Padis@usdoj.gov>

Thanks so much for your prompt and clear response.

As mentioned previously, I intend to continue suggesting sanctions for any delays in getting an Answer from the Defendants but mostly through requests under the courts initiative (no delay in asking for such sanctions).

However, if you ever provide a proper Answer in this matter I expect to make a distinct Motion for Sanctions though with novel alternatives to the normal costs (which clearly don't apply in this matter). I presume that you will OPPOSE any such motion, but it would be good to have a record that I gave notice of the intention (adequate notice) and conferred with you well in advance (adequate notice).

I really don't understand how motions under 11(c)(2) work (served but not filed with court), but I am objecting to the entirety of your Motion to Dismiss and Motion for Continuance under Rule 56(d) (a 5th Circuit construct it seems which I am also contesting).

Please respond with your position on such a Motion for Sanctions.

Thanks again,

Brian

On 4/22/2024 11:11 AM, Padis, George (USATXN) wrote:

> Unopposed
>
> George M. Padis
> Assistant U.S. Attorney
> (214) 659-8645
>
> ---
>
> **From:** Brian Carr <carrbp@gmail.com>
> **Sent:** Monday, April 22, 2024 9:17:38 AM
> **To:** Padis, George (USATXN) <GPadis@usa.doj.gov>
> **Subject:** [EXTERNAL] Re: Carr v. USCIS et al. - Motion under Rule 56(d)
>
> Dear Mr. Padis,
>
> As I am sure you are aware, on Friday I submitted a Motion to Correct Typographical or Clerical Errors as Doc 24 asking that the court seal document

20-2 which is an improperly redacted copy of Mrs. Carr's 'green card' and instead rely on Doc 24-1 which, hopefully, is a properly redacted version of the same document.

When I discovered my error I was in a tizzy about how to promptly correct the error and submitted the motion after calling the local ECF help desk without due consideration. I presume that USATXN does not oppose this benign motion (the relief sought is actually exclusively an ECF process) but ask that you clearly state your position so that I can file a Certificate of Conference and, hopefully, have PACER corrected directly without unnecessary further delay.

My apologies for my oversights (both redaction and motion practice) and appreciate your response.

Brian

On Wed, Apr 17, 2024 at 5:49 PM Brian Carr <carrbp@gmail.com> wrote:

Dear Mr. Padis,

You are correct in your expectation that plaintiffs oppose the request. Thanks,

Brian

On 4/17/2024 11:36 AM, Padis, George (USATXN) wrote:

Dear Mr. Carr:

I plan to move under Federal of Civil Procedure 56(d) for dismissal of plaintiffs' motion for a partial summary judgment as premature or, in the alternative, to extend Defendants deadline to respond until 60 days after a decision on Defendants' motion to dismiss (which remains pending until you file an amended complaint). Would you please reply to confirm that plaintiffs oppose the request? Below is the caselaw, which is well-established on this point.

Technically, the Federal Rules of Civil Procedure allow a party to file a motion for summary judgment before an answer has been filed. *See* Fed. R. Civ. P. 56(a); *see also HS Res., Inc. v. Wingate*, 327 F.3d 432, 440 (5th Cir. 2003) (explaining that "an answer is not a prerequisite to the consideration of a motion for summary judgment"). "However, courts have approached such motions with extreme caution." *Matini v. Reliance Standard Life Ins. Co.*, No. 1:05-CV-944-JCC, 2005 WL 2739030, at *2 (E.D. Va. Oct. 24, 2005); *see also Rogers*, 2022 WL 17418978, at *3 (collecting cases where courts denied plaintiffs' summary judgment motions when they were filed before the defendant had answered or the court was still conducting preliminary screening).

"Federal courts . . . are permitted to dismiss a motion for summary judgment without prejudice if it is filed before any party answers." *Dowl v. Prince*, No. 11-CV-0417, 2011 WL 2457684, at *1 (E.D. La. June 20, 2011). In fact, a court should *not* grant a summary-judgment motion filed before an answer "unless in the situation presented, it appears to a certainty that no answer which the adverse party might properly serve could present a genuine issue of fact." *Stuart Inv. Co. v. Westinghouse Elec. Corp.*, 11 F.R.D. 277, 280 (D. Neb. 1951). As a result, courts both in this district and across this circuit have often denied plaintiffs' summary judgment motions as premature when filed before an answer. *See, e.g.*, *Rogers*, 2022 WL 17418978, at *3; *Watkins v. Monroe*, No. 6:18-CV-347, 2019 WL 1869864, at *1 (E.D. Tex. Mar. 27, 2019) (report and recommendation), *adopted*, 2019 WL 18581000 (E.D. Tex. Apr. 25, 2019); *Kuperman v. ICF Int'l*, No. Civ. A. 08-565, 2008 WL 647557, at *1 (E.D. La. Mar. 5, 2008); *Wartsila v. Duke Cap. LLC*, No. Civ. A. H-06-3908, 2007 WL 2274403, at *5 (S.D. Tex. Aug. 8, 2007); *see also Gabarick v. Laurin Mar. (Am.), Inc.*, 406 F. App'x 883, 889–90 (5th Cir. 2010) (remanding case because the grant of summary judgment was premature as the pleadings were "in their infancy" and "very little discovery [had] taken place").

Adjudicating a plaintiff's summary-judgment motion before the defendants "have yet to file answers to the complaint or oppositions of a substantive nature to the motions for summary judgment" could result in a decision that "overlook[s] material issues of fact which might have been raised." *First Am. Bank, N.A. v. United Equity Corp.*, 89 F.R.D. 81, 87 (D.D.C. 1981).

Thanks,

George

George M. Padis
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The U.S. Attorney's Office for the Northern District of Texas
1100 Commerce St., Third Floor
Dallas, TX 75242-1699
Direct line: (214) 659-8645
george.padis@usdoj.gov