

The Honorable Lauren King

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf of
himself and other similarly situated,

Plaintiffs,

v.

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

Defendants.

CASE NO. 2:17-cv-00094-LK

**STIPULATION FOR ORDER
STAYING ACTION UNTIL JUNE 9,
2022; ORDER THEREON**

WHEREAS this action, filed on January 23, 2017, alleges that Defendants have been unlawfully subjecting applications for lawful permanent residence and naturalization submitted to United States Citizenship and Immigration Services (USCIS) by members of the Plaintiff-classes to review under the Controlled Application Review and Resolution Program (CARRP), which is an agency-wide program and process USCIS applies to cases it believes have national security concerns; and

WHEREAS the Amended Complaint in this action seeks, among other things, to enjoin Defendants from applying CARRP to applications for lawful permanent residence or naturalization submitted by members of the Plaintiff classes; and

1 WHEREAS the parties have filed cross-motions for summary judgment on Plaintiffs' claims;
2 and

3 WHEREAS those motions, among others, have been pending before the Court since
4 July 2021; and

5 WHEREAS on or about November 10, 2021, USCIS commenced an agency-wide internal
6 review of its policies and procedures relative to identifying and assessing national security risks
7 presented in immigration benefit applications, including applications for lawful permanent residence
8 and naturalization; and

9 WHEREAS the internal USCIS review is expected to be completed on or about May 10,
10 2022, unless extended by the Director of USCIS; and

11 WHEREAS it is anticipated that, as a result of this review, new or revised relevant policies
12 will be issued by USCIS leadership; and

13 WHEREAS Defendants anticipate that these new and revised USCIS policies are likely to
14 have a material impact on some or all of the legal issues presently before the Court for adjudication;
15 and

16 WHEREAS the parties mutually agree that it will be in the best interest of the Plaintiff
17 classes and Defendants, and serve the interests of conserving judicial resources, to stay the case until
18 the internal USCIS review is completed in May 2022;

19 NOW THEREFORE, the parties, through their respective counsel of record do hereby
20 stipulate and agree that the Court may make and enter the following order:

- 21 1. This action, and all proceedings therein, shall be stayed until June 9, 2022.
- 22 2. Commencing on February 1, 2022, and continuing throughout the time that the stay
23 remains in place, Defendants will suspend the issuance of denials of class members' relevant
24 Form I-485 or N-400 applications, except in the following circumstances:

25 *i.* USCIS will not hold the denial of any relevant application if USCIS will issue a
26 "Notice to Appear" (NTA) to the applicant following denial of the case.

1 ii. USCIS will not hold the denial of any relevant application if that application is at
2 issue in ongoing litigation (other than the *Wagafe* litigation).

3 3. In consideration of the statistical anomaly that will be created by the suspension of
4 denials as described in the preceding paragraph, Plaintiffs agree not to use the increase in statistical
5 delays resulting from this suspension against Defendants in arguments going forward in this lawsuit.

6 4. Within fourteen days after the expiration of the stay, Defendants will provide
7 Plaintiffs' counsel with a record reflecting the overall number of class member applications in which
8 the denial of the application was suspended because of this stipulation. Defendants will provide this
9 list as an "attorney's eyes only" restricted record subject to the restrictions set forth in this Court's
10 orders pertaining to such information, Dkt. # 183 and # 192.

11 5. Within 90 days of the date of the commencement of the stay, Defendants shall file a
12 status report with the Court which sets forth the progress that Defendants have made toward
13 completion of their review process and the prospects as they see them for completing the review
14 process by May 10, 2022.

15 6. By no later than March 1, 2022, Plaintiffs shall send a settlement demand to
16 Defendants' counsel. Defendants will consider Plaintiffs' settlement demand in connection with
17 their policy review. Defendants shall respond to Plaintiffs' settlement demand by no later than
18 June 10, 2022.

19 7. Defendants will timely supplement their discovery responses following the expiration
20 of the stay, as appropriate, in accordance with Rule 26(e), Fed.R.Civ.Pro.

21 8. By June 23, 2022, counsel for Plaintiffs and counsel for Defendants shall meet to
22 (1) discuss the parties' settlement offers; (2) identify the issues, if any, that the parties believe remain
23 in dispute; and (3) discuss whether an attempt should be made to resolve any such remaining
24 disputed issues either through a continuation of informal settlement negotiations or by entering into
25 mediation pursuant to LCR 39.1 of the Local Rules of this Court according to a procedure that they
26 have mutually agreed upon.

1 9. By July 8, 2022, the parties will submit a joint status report identifying any issues
2 remaining in dispute and proposing a joint case schedule to resolve any such issue or issues. If the
3 parties cannot agree on a proposed case schedule for the resolution of any remaining issues in
4 dispute, they may separately set forth their own proposed case schedules for consideration by the
5 Court.

6 10. ~~As an exception to the stay, and upon the Court's approval of a pending joint-~~
7 ~~stipulation allowing for the public filing of redacted versions of summary judgment briefs that the-~~
8 ~~parties previously submitted as Highly Sensitive Documents (HSDs), the parties shall be permitted~~
9 ~~to move forward and file redacted versions of those briefs.~~

10 11. ~~An additional exception to the stay shall be the parties' compliance with the Court's~~
11 ~~order dated January 31, 2022 (Dkt. # 587), and the Court's resolution of the underlying sealing and~~
12 ~~highly sensitive document motions.~~

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1 **SO STIPULATED.**

2 Dated: February 11, 2022

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1 **SO STIPULATED.**

DATED: February 11, 2022

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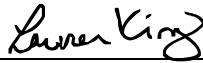
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Counsel for Plaintiffs

ORDER

In light of the parties' stipulated stay and the terms set forth above, the Court STRIKES the March 29, 2022 joint statement deadline. The Court will set a new joint statement deadline, if necessary, once the parties submit their updated Joint Status Report on or before July 8, 2022. Whether and to what extent the parties may file redacted summary judgment briefs turns on the Court's resolution of their "joint statement concisely consolidating their positions on any materials for sealing." Dkt. No. 587 at 6. The Court accordingly GRANTS the parties' stipulation as modified and DENIES as moot the parties' Stipulation for Extension of Time to Respond to Court Order. IT IS SO ORDERED.

DATED this 22 day of February, 2022



LAUREN KING
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Victoria M. Braga
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