

EXHIBIT F

~~FILED UNDER SEAL~~

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

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-----X
ABDIQAFAR WAGAFE, et al., on      )
behalf of themselves and others  )
similarly situated,              )
                                )
                                ) Plaintiffs, ) No.
                                )
                                )
v.                                ) 17-cv-00094 RAJ
                                )
DONALD TRUMP, President of the   )
United States, et al.,          )
                                )
                                ) Defendants. )
-----X

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CONFIDENTIAL UNDER THE PROTECTIVE ORDER
VIDEOTAPED DEPOSITION OF KEVIN MARK SHINABERRY
Monday, August 31, 2020; 10:24 a.m. EST

Job No.: 623007

Pgs. 1 - 221

Reported by: Cindy L. Sebo, RMR, CRR, RPR, CSR, CCR,
CLR, RSA, Remote Counsel Reporter, LiveDeposition
Authorized Reporter

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1 Confidential Videotaped Deposition
2 of KEVIN MARK SHINABERRY taken by Counsel for
3 Plaintiffs, held remotely before Cindy L. Sebo,
4 Registered Merit Court Reporter, Certified Real-Time
5 Reporter, Registered Professional Reporter, Certified
6 Shorthand Reporter, Certified Court Reporter,
7 Certified LiveNote Reporter, Real-Time Systems
8 Administrator, Remote Counsel Reporter,
9 LiveDeposition Authorized Reporter and Notary Public,
10 beginning at approximately 10:24 a.m. EST, when were
11 present on behalf of the respective parties:

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(All via Zoom Video Communications)

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13 SEAN KRUSKOL, Cornerstone Research

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1 INDEX OF EXAMINATION

2

3 KEVIN MARK SHINABERRY

4 EXAMINATION BY PAGE

5 Mr. Ahmed 12, 92

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8 INDEX TO EXHIBITS

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10 (Exhibits Attached to the Original Transcript.)

11 DEPOSITION EXHIBIT DESCRIPTION PAGE

12 Exhibit A Agreement for Taking of
13 Deposition of USCIS Pursuant
14 to Rule 30(b)(6), F.R.Civ.P. 17

15
16 Exhibit B Excel Spreadsheet 24

17 Exhibit C CSV file 26

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19 Exhibit C1 Excerpt from the USCIS
20 detail data 94

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Exhibit H	USCIS User Guide, FDNS-DS User Guide, Release 16.2, Bates stamped DEF-00428622 through DEF-00429219	118
Exhibit I	Excel Spreadsheet	160

1 S T I P U L A T I O N S

2

3 IT IS HEREBY STIPULATED AND AGREED

4 by and between counsel no party to the litigation
5 will object to the remote deposition on the grounds
6 that the certified stenographer may not have the
7 legal authority to swear in the witness.

8

9 FURTHER STIPULATED AND AGREED

10 that in lieu of the oath administered in person,
11 the witness declares the testimony in this matter
12 under the penalty of perjury.

13

14 FURTHER STIPULATED AND AGREED

15 that the certified stenographer is not physically
16 present in the deposition room and will be
17 reporting this deposition remotely.

18

19 FURTHER STIPULATED AND AGREED

20 all parties and their counsel consent to this
21 arrangement and waive any objections to this manner
22 of reporting.

1 P R O C E E D I N G S

2

3 Remote Deposition

4 Monday, August 31, 2020; 10:24 a.m.

5

6 THE VIDEOGRAPHER: We are now on
7 the record.

8 This begins the -- Video 1 in the
9 deposition of Kevin Shinaberry in the
10 matter of Abdiqafar Wagafe, et al. versus
11 Donald Trump, President of the United
12 States, et al., in the
13 United States District Court,
14 Western District of Washington at
15 Seattle.

16 Today is Monday, August 31st,
17 2020. The time is 10:24 a.m. Eastern.

18 Deposition is being taken remotely
19 at the request of Perkins Coie LLP.

20 The videographer is Dan Katz, and
21 the court reporter is Cindy Sebo.

22 All counsel and parties present

1 will be noted on the stenographic record.

2 Will the court reporter please

3 swear in the witness?

4 - - -

5 KEVIN MARK SHINABERRY,

6 after having been first duly sworn remotely

7 by the certified stenographer, was examined

8 and testified remotely as follows:

9 - - -

10 CERTIFIED STENOGRAPHER: The

11 witness is sworn, and I'll go on mute.

12 - - -

13 EXAMINATION BY COUNSEL FOR PLAINTIFFS

14 - - -

15 BY MR. AHMED:

16 Q. Hi, Mr. Shinaberry.

17 Could you please state your name for

18 the record?

19 A. Kevin Mark Shinaberry.

20 Q. My name is Sameer Ahmed, and I'm one

21 of the attorneys for the Plaintiffs in this case.

22 How are you doing this morning?

1 (Certified Stenographer requested
2 clarification due to audio
3 distortion/malfunction.)

4 BY MR. AHMED:

5 Q. So in this excerpt from the USCIS
6 detail data, it lists a receipt date of
7 August 29th, 2019 and the current status date of
8 August 29th, 2019. And it says the application
9 has been approved.

10 And how can an application be
11 approved the same day it was received?

12 A. Yeah. And so I think the crux of the
13 issue is a -- a data entry error, likely at the
14 time of -- of adjudication.

15 Q. Do you know approximately how many
16 entries have data errors at the time of
17 adjudication?

18 MR. TARANTO: Counsel, are you
19 asking as to the -- each of the nine-plus
20 million cases that are adjudicated?

21 MR. AHMED: I'm asking of the
22 USCIS detail data that had 10 million

1 entries. So does he have an idea of
2 approximately how many of those entries
3 would have data errors.

4 THE WITNESS: Obvious ones like --
5 like this with zero or negative
6 processing times is a very small number.
7 Out of all 10.6 million applications, I
8 believe it's probably a few hundred.

9 BY MR. AHMED:

10 Q. But you don't know that for sure,
11 correct? You're just estimating?

12 A. I could determine it by looking at
13 the data, but off the top of my head, I do not
14 know that for certain.

15 Q. Let's turn back to a -- USCIS summary
16 data, which is previously marked Exhibit E.

17 And do you see this in front of you,
18 data that was provided to Plaintiffs in June of
19 2020?

20 A. I do.

21 Q. So I want to turn to the third tab,
22 Adjudicated processing times.

1 Do you see the tables on this tab?

2 A. Yes, I do.

3 Q. And these tables say -- or this tab
4 contains tables for the average and median
5 processing times for adjudicated applications; is
6 that correct?

7 A. That's correct.

8 Q. And if you look at Note 3 here, it
9 says, Processing times for adjudicated
10 applications are calculated using latest
11 adjudicated decision minus the receipt date.

12 Is that correct?

13 A. That's correct.

14 Q. So for the entries where the current
15 status date is prior to the receipt date, how
16 were those processing times calculated?

17 A. What I did and is the normal practice
18 in our reporting on processing times is to
19 exclude values less than -- than 1. So those
20 applications are included in receipt counts but
21 excluded from the processing times.

22 Q. Is that noted anywhere on this

1 document?

2 A. I don't believe so.

3 Q. So to your understanding, you had
4 excluded -- scratch that.

5 I guess the -- similar to -- for the
6 entries where the current status date is equal
7 to receipt date, were those processing times
8 also excluded on this table?

9 A. Yes, and any processing time less
10 than 1. So if they have an equal date, they're
11 going to be excluded.

12 Q. But say someone -- but -- say the --
13 the current status date was improperly inserted
14 two days after the receipt date.

15 That wouldn't be included in this
16 table, correct?

17 A. If the status date was two days after
18 the receipt date, it would be included.

19 Q. So say USCIS made an error and they
20 said the application is adjudicated and approved
21 two days after it was received.

22 That application would be included

1 in the processing times reflected in this data,
2 correct?

3 MR. TARANTO: Objection: lack of
4 foundation.

5 But you may answer, if you can.

6 THE WITNESS: Theoretically, yes,
7 that would be included.

8 MR. AHMED: Okay. If we could go
9 off the record, I -- for about
10 10 minutes. I just want to see what
11 other questions I may have for you. And
12 then hopefully we can wrap up this
13 deposition. So let's go off the record.

14 Sorry.

15 THE VIDEOGRAPHER: I couldn't
16 unmute there.

17 4:09 p.m. We're off the record.

18 - - -

19 (Whereupon, a recess was taken from
20 4:09 p.m. to 4:23 p.m.)

21 - - -

22 THE VIDEOGRAPHER: 4:23 p.m.