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7
 8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 YEA JI SEA,

11 Plaintiff,

12 v.

13 UNITED STATES DEPARTMENT OF
 14 HOMELAND SECURITY; KIRSTJEN
 NIELSEN, Secretary, Department of
 15 Homeland Security; UNITED STATES
 CITIZENSHIP AND IMMIGRATION
 16 SERVICES; L. FRANCIS CISSNA,
 Director, United States Citizenship and
 17 Immigration Services; DANIEL
 18 RENAUD, Associate Director, Field
 Operations Directorate, United States
 Citizenship and Immigration Services,

19 Defendants.

) Case No. 2:18-cv-06267

) **COMPLAINT**

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INTRODUCTION

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2 1. Plaintiff Specialist Yea Ji Sea (“Plaintiff” or “SPC Sea”) brings this action to
3 compel the United States Citizenship and Immigration Services (“USCIS”) to
4 adjudicate her application for naturalization, which has been pending without a
5 decision since July 26, 2016.

6 2. SPC Sea has honorably served in the U.S. Army for over four years. SPC Sea,
7 who was born in South Korea, came to the United States in 1998 as a nine-year old
8 and was raised in the Los Angeles area. In 2013, SPC Sea enlisted in the U.S. Army
9 through the U.S. Department of Defense’s (“DoD’s”) Military Accessions Vital to the
10 National Interest (“MAVNI”) program, available to noncitizens holding skills critical
11 to the needs of the U.S. military.

12 3. SPC Sea is eligible to naturalize as a U.S. citizen under 8 U.S.C. § 1440 due to
13 her honorable service during a period of declared hostilities and her good moral
14 character. Although she submitted a naturalization application on July 26, 2016,
15 USCIS has yet to process her application. She has not even been scheduled for a
16 naturalization examination interview.

17 4. Instead, despite her years of honorable military service and pending
18 naturalization application, the DoD is honorably discharging SPC Sea from the Army.
19 Because she no longer has valid immigration status, SPC Sea is unable to work
20 lawfully in the United States and is subject to arrest, detention, and deportation by the
21 U.S. Department of Homeland Security (“DHS”).

22 5. USCIS has failed to adjudicate SPC Sea’s naturalization application in a lawful,
23 fair, reasonable, and timely manner. USCIS’s delay is unreasonable in violation of the
24 Administrative Procedure Act (“APA”), 5 U.S.C. §§ 555, 706, and the Mandamus
25 Act, 28 U.S.C. § 1361.

26 6. Accordingly, SPC Sea requests that this Court order USCIS to adjudicate her
27 naturalization application expeditiously so that she may obtain citizenship in the
28 country that she has spent over four years defending. As SPC Sea’s former Platoon

1 Sergeant has written in a Character Statement: “She is serving the United States
2 Army, volunteers for deployments willing to die for a country she loves. She has
3 sacrificed for this country [more] th[a]n what most American citizens are willing to
4 give up for their country. I would trust her with my life and [she] deserves citizenship
5 more than most.”

6 **PARTIES**

7 7. Plaintiff Yea Ji Sea is a 29-year-old Korean national recruited into, and
8 honorably serving in, the Armed Forces of the United States as a Specialist (“SPC”) in
9 the U.S. Army. She has applied to naturalize as a U.S. citizen under 8 U.S.C. § 1440.
10 SPC Sea is a resident of Gardena, California who is currently assigned to the duty
11 station at Fort Sam Houston, Texas.

12 8. Defendant DHS is a federal agency responsible for the administration and
13 enforcement of the immigration and naturalization laws of the United States.

14 9. Defendant Kirstjen Nielsen is the Secretary of DHS. Secretary Nielsen is
15 responsible for the administration and management of DHS, and the enforcement of
16 the immigration and naturalization laws of the United States. 8 U.S.C. § 1103(a); 8
17 C.F.R. § 2.1. She is named in her official capacity.

18 10. Defendant USCIS is a federal agency that is part of DHS. USCIS is responsible
19 for administration and implementation of the immigration and naturalization laws of
20 the United States, including the adjudication of applications for naturalization. 8
21 C.F.R. § 332.1(a).

22 11. Defendant L. Francis Cissna is the Director of USCIS. As Director of USCIS,
23 Cissna is responsible for the administration of USCIS and its subordinate employees
24 and agents, as well as the implementation of the immigration and naturalization laws
25 of the United States, including the adjudication of applications for naturalization. He
26 is named in his official capacity.

27 12. Defendant Daniel Renaud is the Associate Director of the Field Operations
28 Directorate of USCIS, which is responsible for and oversees the processing and

1 adjudication of naturalization applications through the USCIS field offices and the
2 National Benefits Center. He is named in his official capacity.

3 **JURISDICTION AND VENUE**

4 13. Jurisdiction is proper under 28 U.S.C. §§ 1331 (Federal Question), 1361
5 (Mandamus Act), 1651 (All Writs Act), 2201 *et seq.* (Declaratory Judgment), and 5
6 U.S.C. § 701 *et seq.* (APA).

7 14. Venue is proper in the Central District of California under 28 U.S.C. §
8 1391(e)(1)(C), because this action is brought against officers of the United States in
9 their official capacities in the District where Plaintiff SPC Sea resides.

10 15. Although she is currently stationed at Fort Sam Houston, Texas, SPC Sea
11 resides within this District in Gardena, California. *See, e.g.*, 50 U.S.C. §§ 4001(a)(1),
12 § 4025(a).

13 **EXHAUSTION OF REMEDIES**

14 16. SPC Sea is not required to exhaust any administrative remedies prior to
15 bringing this action under the Immigration & Nationality Act (“INA”), the APA, or
16 for a writ of mandamus.

17 17. USCIS does not provide any effective administrative mechanisms to address
18 delays in the processing of naturalization applications.

19 **FACTUAL ALLEGATIONS**

20 **SPC Sea’s Immigration History Before Enlisting In The U.S. Army**

21 18. SPC Sea was born in South Korea on September 1, 1988. In January 1998,
22 SPC Sea was brought to the United States by her parents when she was 9 years old,
23 and was lawfully admitted on a B-2 visitor visa.

24 19. Between January 1998 and March 2008, SPC Sea remained in the United States
25 at times on B-2 status and at other times on E-2 investor visa dependent status.

26 20. In March 2008, an attorney filed an I-539 Application to Extend/Change
27 Nonimmigrant Status with USCIS on SPC Sea’s behalf to change her B-2 status to an
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1 F-1 student based on her application to study at the Neo-America Language School.
2 USCIS granted that application in October 2008, and she obtained F-1 status.

3 **SPC Sea’s Honorable Service In The U.S. Army Through The MAVNI Program**

4 21. While an applicant must typically be a lawful permanent resident (“LPR”) or
5 U.S. citizen to enlist in the U.S. military, the Secretary of Defense is authorized to
6 enlist other persons without that status if their enlistment is vital to the national
7 interest. *See* 10 U.S.C. § 504(b).

8 22. Pursuant to that authority, in 2008, the DoD authorized the MAVNI recruitment
9 program to enlist certain noncitizens if they are lawfully present and hold critical
10 skills, including physicians, nurses, and experts in certain foreign languages.

11 23. In October 2013, SPC Sea enlisted in the U.S. Army through the MAVNI
12 program. SPC Sea was authorized to enlist under the MAVNI program because she
13 was lawfully present in the United States on an F-1 student visa, could speak Korean,
14 and was qualified to be a healthcare specialist in the U.S. Army.

15 24. In February 2014, SPC Sea began her honorable active duty service in the U.S.
16 Army as a healthcare specialist with the rank of Private First Class (“PFC”).

17 25. From February to April 2014, SPC Sea was initially stationed at Fort Sill,
18 Oklahoma. She then moved to Fort Sam Houston, Texas, from April to August 2014,
19 then to Camp Casey in South Korea from August 2014 to July 2015, and then returned
20 to Fort Sam Houston in July 2015, where she is currently stationed.

21 26. As a healthcare specialist, SPC Sea has served as an ambulance aid driver and a
22 pharmacy technician, among performing other tasks. While stationed in South Korea,
23 she served in the 2nd Battalion, 9th Infantry Regiment (also known as the “Manchu
24 Battalion”). In South Korea, SPC Sea looked after the healthcare of over 800 soldiers,
25 served as an ambulance aid and driver, and later became the only pharmacy technician
26 for the entire Camp Casey Combined Troop Aid Station and served over 1,800
27 soldiers. SPC Sea also spent countless hours of her off-time to treat injured soldiers
28 and serve as a translator for doctors.

1 27. While serving as a pharmacy technician at the Camp Casey Combined Troop
2 Aid Station, SPC Sea led process-improvement efforts in the areas of pharmacy
3 efficiency, standardization, and regulation compliance. She also trained and validated
4 three junior medics and helped educate incoming members of her unit.

5 28. While serving in the Manchu Battalion, SPC Sea also completed the Battalion's
6 difficult "Manchu Mile," a 25-mile foot march in combat gear across South Korea's
7 mountainous terrain that commemorates the 85-mile march to battle by the Battalion
8 during the Boxer Rebellion.¹

9 29. Because of SPC Sea's outstanding service, she has received two Army
10 Achievement Medals from the Secretary of the Army.

11 30. SPC Sea's first Army Achievement Medal, issued on June 1, 2015, was "for
12 exceptionally meritorious service while assigned as an ambulance aid and driver" in
13 the Manchu Battalion. The medal certificate states that SPC Sea's "dedication to duty
14 and outstanding performance are in keeping with the finest traditions of military
15 service and reflect great credit upon herself, the 'Manchu' Battalion and the United
16 States Army."

17 31. SPC Sea's second Army Achievement Medal, issued on June 17, 2015, was
18 "for exceptionally meritorious service while assigned as a healthcare specialist in
19 headquarters and headquarters company" in the Manchu Battalion. The medal
20 certificate states that SPC Sea's "dedication to duty, selfless service and outstanding
21 performance have contributed greatly to the unit's success. Her actions reflect great
22 credit upon herself, the 'Manchu' Battalion and the United States Army."

23 32. Because of her outstanding service, SPC Sea was promoted to Specialist on
24 September 1, 2015. Effective with her promotion, SPC Sea was "charged to execute
25 diligently [her] special skills with a high degree of technical proficiency and to

26 ¹ The Boxer Rebellion was a violent anti-foreign and anti-colonial uprising that took
27 place in China between 1899 and 1901. In 1900, the Manchu Battalion marched 85
28 miles across China to take part in a battle in Tientsin. See Spc. Hannah Frenchick,
Manchu Soldiers 'keep up the fire', JBLM Northwest Guardian (Aug. 26, 2011),
[http://www.nwguardian.com/2011/08/26/10929_manchu-soldiers-keep-up-the-
fire.html](http://www.nwguardian.com/2011/08/26/10929_manchu-soldiers-keep-up-the-fire.html).

1 maintain standard of performance, moral courage and dedication to the Army which
2 will serve as outstanding examples to [her] fellow soldiers.” Her Certificate of
3 Promotion also stated that her “unfailing trust in superiors and loyalty to [her] peers
4 will significantly contribute to the readiness and honor of the United State Army.”

5 33. After her promotion, SPC Sea continued to honorably serve in the U.S. Army.
6 At Fort Sam Houston, SPC Sea has served as a medic at the Brooke Army Medical
7 Center. Because of her strong performance, she was selected to serve as an Operation
8 Specialist, a position of significant responsibility for the Army’s premier flagship
9 medical treatment facility.

10 34. As one of SPC Sea’s supervisors has written in a Character Statement: “SPC
11 Sea has the drive and professionalism needed to bring the U.S. Army to new heights.
12 She represents the best that the Army has to offer: a smart, agile young leader capable
13 of handling immense challenges with marked success.”

14 35. While serving in the U.S. Army as a Specialist, SPC Sea has received a salary
15 of about \$2,270.50 per month. Because she currently lives on base at Fort Sam
16 Houston, SPC Sea is also provided free housing by the U.S. Army.

17 **Naturalization Through Honorable Military Service**

18 36. “Any person who, while an alien . . . has served honorably . . . in an active-duty
19 status in the military, air, or naval forces of the United States” during a period of
20 hostilities as designated by Executive Order “may be naturalized” if she enlisted while
21 in the United States. 8 U.S.C. § 1440(a).

22 37. Unlike other forms of naturalization, no age, residence, or physical presence
23 requirements for naturalization apply to service members during a period of
24 designated hostilities. 8 U.S.C. § 1440(b). There is also no requirement that
25 applicants be LPRs at the time of their application. 8 U.S.C. § 1440(a).

26 38. Generally, to qualify for naturalization, a military applicant under 8 U.S.C. §
27 1440 must still meet other requirements, including that the applicant “[h]as been, for
28 at least one year prior to filing the application for naturalization, and continues to be,

1 of good moral character, attached to the principles of the Constitution of the United
2 States, and favorably disposed toward the good order and happiness of the United
3 States.” 8 C.F.R. §329.2(d).

4 **SPC Sea’s First Naturalization Application**

5 39. The United States has been designated by Executive Order as in a period of
6 hostilities since the September 11, 2001 terrorist attacks.² Before October 2017, the
7 enlistment contracts of MAVNI recruits, including SPC Sea, required that, in
8 exchange for being permitted to enlist in the U.S. Army, they must agree to apply for
9 naturalization as soon as the Army had certified their honorable service.

10 40. Therefore, in February 2014, SPC Sea filed her first N-400 naturalization
11 application soon after entering military service.

12 41. In reviewing SPC Sea’s first naturalization application, USCIS alleged that her
13 F-1 student visa had been obtained by fraud. Specifically, SPC Sea’s I-539
14 application in March 2008 included an I-94 Arrival/Departure Form indicating that
15 SPC Sea had last arrived in the United States on October 27, 2007 as a B-2 visitor.
16 USCIS claimed that the I-94 form was obtained fraudulently as part of a larger scheme
17 involving the Neo-America Language School and other educational institutions.

18 42. Unbeknownst to SPC Sea, in 2008, Hee Sun Shim, the owner of the Neo-
19 America Language School, had been working with a corrupt U.S. Customs & Border
20 Protection (“CBP”) agent named Michael Anders to create false I-94 forms to allow
21 individuals to obtain F-1 status.

22 43. In May 2013, CBP agent Anders was one of six federal immigration officials
23 indicted by a federal grand jury for taking part in a larger fraudulent scheme of
24 providing immigration benefits in exchange for receiving cash and gift bribes.³ In

25 _____
26 ² See Executive Order 13269—Expedited Naturalization of Aliens and Noncitizen
27 Nationals Serving in An Active-Duty Status During the War on Terrorism, 2002 WL
28 1833360, at *1.

³ See ABC News, 6 Immigration Officials Indicted for Taking Cash, Gifts for
Immigration Papers (May 11, 2013),
https://abcnews.go.com/ABC_Univision/News/immigration-officials-indicted-taking-cash-gifts-immigration-papers/story?id=19153891.

1 April 2018, Shim was sentenced to 15 months in federal prison after pleading guilty to
2 one count of conspiracy to commit immigration fraud and one count of immigration
3 document fraud for his role in the fraudulent scheme.

4 44. SPC Sea, who was only 19 years old at the time when her I-539 application was
5 filed, had no knowledge of the fraudulent scheme, and believed that her F-1 status had
6 been obtained lawfully. Her I-539 application was filed by an attorney and relied on a
7 facially valid I-94 form and official stamp in her passport created by CBP agent
8 Anders.

9 45. The Neo-America Language School had also been approved by the U.S.
10 Immigration and Customs Enforcement's ("ICE's") Student and Exchange Visitor
11 Program and had been entered into its Student and Exchange Visitor Information
12 System. Because ICE had authorized the Neo-America Language School to enroll
13 students in F-1 status, SPC Sea had no reason to be aware of the school's participation
14 in the fraudulent scheme.

15 46. In interviews on April 2, 2014 and April 17, 2015, USCIS officers questioned
16 SPC Sea about the I-94 form included in her I-539 application. SPC Sea was not
17 represented by counsel in the interviews. In the April 2, 2014 interview, SPC Sea
18 stated that she had never given false information to any U.S. government official
19 while applying for any immigration benefit. In the April 17, 2015 interview, SPC Sea
20 stated that she did not provide false information during her previous interview and did
21 not provide false information when she submitted her I-539 application. Nervous,
22 scared, and unaccompanied by counsel, SPC Sea stated that the I-94 form was an
23 accurate record of a lawful entry to the United States from South Korea on October
24 27, 2007 even though it was not.

25 47. USCIS denied SPC Sea's naturalization application on June 4, 2015. USCIS
26 found that SPC Sea provided false testimony during her April 2, 2014 interview when
27 she testified that she had never previously given false information to obtain an
28 immigration benefit. USCIS also found that SPC Sea provided false testimony during

1 her April 17, 2015 interview when she stated that the I-94 form was an accurate record
2 of a lawful entry on October 27, 2007. USCIS found that SPC Sea had not established
3 that she was a person of “good moral character” because she gave false testimony to
4 obtain an immigration benefit. However, SPC Sea was permitted to apply for
5 naturalization again, after having demonstrated “good moral character” for at least one
6 year. *See* 8 C.F.R. §329.2(d) (stating requirement that applicant “[h]as been, for at
7 least one year prior to filing the application for naturalization, and continues to be, of
8 good moral character”).

9 **SPC Sea’s Current Naturalization Application**

10 48. On July 26, 2016, SPC Sea filed her second N-400 naturalization application
11 with USCIS’s Nebraska Service Center. Because she was stationed at Fort Sam
12 Houston, Texas, SPC Sea requested that her naturalization interview take place at the
13 USCIS office in San Antonio, Texas. USCIS acknowledged receipt of her application
14 on August 5, 2016.

15 49. On November 28, 2016, USCIS sent SPC Sea a biometrics notice to capture her
16 biometrics and have her fingerprints cleared by the FBI. SPC Sea completed her
17 biometrics at a USCIS office in San Antonio, Texas on December 5, 2016.

18 50. Since then, and although SPC Sea’s naturalization application has been pending
19 for almost two years, Defendants have yet to schedule SPC Sea for a naturalization
20 interview, and she has not received any additional correspondence from Defendants
21 regarding her naturalization application.

22 51. SPC Sea continued to serve honorably in the U.S. Army and remains eligible
23 for naturalization.

24 52. SPC Sea continues to be a person of “good moral character.” As SPC Sea’s
25 current supervisor has written in a Character Statement: “She claims this country, the
26 only country that she [has] known for the majority of her life. She is doing something
27 that only one percent of the population ... has done and is continuing doing; fighting
28 for a country that she is willing to d[ie for]....She should be granted [U.S.] citizenship

1 for what she had done for the country, the communities and the people that she
2 continue[s] to [have] love for, the Americans. Her ultimate goal is to become a citizen
3 and continue to give back to the country that provide[d] her the freedom and being
4 able to sacrifice herself for this country.”

5 53. Defendants have committed to adjudicating military naturalization applications
6 fairly, efficiently, in a timely manner, and in the order received.

7 54. Congress has generally stated “that the processing of an immigration benefit
8 application,” which includes naturalization, “should be completed not later than 180
9 days after the initial filing of the application.” 8 U.S.C. § 1571(b).

10 55. In the normal course of business in the USCIS Field Office in San Antonio,
11 Texas, according to the USCIS website, an estimated time range for processing
12 naturalization applications is between 4.5 to 16.5 months.⁴ Because SPC Sea
13 submitted her naturalization application on July 26, 2016, SPC Sea’s naturalization
14 application should have been processed by December 11, 2017 at the latest under the
15 agency’s current processing timeframe.

16 56. Defendants are charged with the fair and faithful execution of the naturalization
17 laws and policies of the United States. Defendants have a duty to adjudicate SPC
18 Sea’s naturalization application in a lawful, fair, reasonable, and timely manner.
19 Defendants have failed to fulfill this duty.

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22 ⁴ See USCIS, Check Case Processing Times, <https://egov.uscis.gov/processing-times/>.
23 USCIS’s own data indicates that the San Antonio Field Office processes military
24 naturalization applications more quickly than other naturalization
25 applications. Between when SPC Sea filed her naturalization application and today, it
26 has significantly reduced the number of pending military naturalization applications,
27 even as the backlog of other naturalization applications has increased. *Compare*
28 USCIS Military and Non-Military Naturalization Form N-400 Performance Data
Fiscal Year 2016, 3rd Qtr, at 3 (Sept. 13, 2016) (indicating that the San Antonio Field
Office received 215 military naturalization applications, approved 248, and had 387
pending), *with* USCIS Military and Non-Military Naturalization Form N-400
Performance Data Fiscal Year 2018, 2nd Qtr, at 3 (July 17, 2018) (indicating that the
San Antonio Field Office received 24 military naturalization applications, approved
57, denied 14, and had 272 pending), *available at* [https://www.uscis.gov/tools/reports-
studies/immigration-forms-data/data-set-form-n-400-application-naturalization](https://www.uscis.gov/tools/reports-studies/immigration-forms-data/data-set-form-n-400-application-naturalization).

1 57. Defendants have official policies, procedures, and regulations for the way that
2 naturalization applications must be filed and how they must be adjudicated by
3 Defendants. *See, e.g.*, 8 U.S.C. §§ 1421-1450; 8 C.F.R. §§ 310.1-392, 1337.1-
4 1337.10. Defendants also have official policies to expedite military naturalization
5 applications, including those for MAVNI enlistees like SPC Sea.⁵ The U.S. Army’s
6 own published guidance that “explains the procedures for Soldiers to apply for
7 citizenship” expressly notes that “[t]he goal is to streamline and expedite the handling
8 of their applications.”⁶

9 58. For members of the United States Armed Forces on active duty serving abroad,
10 Congress requires that their naturalization applications “receive expedited processing
11 and are adjudicated within 180 days of the receipt of responses to all background
12 checks.” 8 U.S.C. § 1440f(e)(2). And, until the provision sunsetted in 2013,
13 Congress had also required USCIS to either adjudicate military naturalization
14 applications within six months or provide an explanation for its inability to meet that
15 adjudication deadline. *See* Military Personnel Citizenship Processing Act, Pub. L.
16 110-382, 122 Stat. 4087 (2008).

17 59. Defendants have failed to properly supervise their employees, such that the
18 employees fail to follow the statutes, regulations, and agency policies concerning the
19 processing of naturalization applications, including SPC Sea’s naturalization
20 application.

21 60. Defendants have unreasonably delayed SPC Sea’s statutory right to naturalize,
22 as well as her opportunity to live and work in the United States as a U.S. citizen, to
23 travel freely as a U.S. citizen, to vote in elections, to serve on juries, and to enjoy
24 other rights and responsibilities of U.S. citizenship.

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⁵ *See Kirwa v. United States Dep’t of Def.*, 285 F. Supp. 3d 21, 29-31 (D.D.C. 2017).

⁶ *Kirwa*, 285 F. Supp. 3d at 28.

1 **SPC Sea’s DACA Application And Discharge From The U.S. Army**

2 61. Because Defendants have alleged that SPC Sea’s F-1 status was obtained by
3 fraud and consider her to be unlawfully present in the United States, on January 20,
4 2017, SPC Sea also filed an I-821D application for Deferred Action for Childhood
5 Arrivals (“DACA”) with USCIS.

6 62. Although SPC Sea is eligible for DACA, Defendants have also wrongfully
7 failed to adjudicate her DACA application.

8 63. On June 21, 2018, the U.S. Army initiated a separation action against SPC Sea,
9 alleging that she improperly enlisted in the U.S. Army through the MAVNI program
10 because her F-1 status was not valid prior to enlisting. The separation action
11 recommends that SPC Sea’s military service be characterized as Honorable.

12 64. On July 19, 2018, the U.S. Army made a final determination on the separation
13 action against SPC Sea, and she is being honorably discharged from the Army.
14 Because SPC Sea has no valid immigration status, she is unable to work lawfully in
15 the United States and support herself. She is unable to obtain a driver’s license where
16 she is currently stationed in Texas. She is also subject to arrest, detention, and
17 deportation by immigration authorities.

18 **CLAIMS FOR RELIEF**

19 **First Claim**

20 **Unreasonable Delay In Violation of the Administrative Procedure Act**

21 65. All of the foregoing allegations are repeated and realleged as though fully set
22 forth herein.

23 66. The APA requires administrative agencies to conclude matters presented to
24 them “within a reasonable time.” 5 U.S.C. § 555(b). A district court reviewing
25 agency action may “compel agency action unlawfully withheld or unreasonably
26 delayed.” 5 U.S.C. § 706(1). The court may also hold unlawful agency action that is
27 found to be: “not in accordance with the law,” 5 U.S.C. § 706(2)(A); “in excess of
28 statutory jurisdiction, authority, or limitations, or short of statutory right,” 5 U.S.C. §

1 706(2)(C); or “without observance of procedure required by law,” 5 U.S.C. §
2 706(2)(D). “Agency action” includes, in relevant part, “an agency rule, order, license,
3 sanction, relief, or the equivalent or denial thereof, or failure to act.” 5 U.S.C. §
4 551(13).

5 67. Defendants have failed to adjudicate SPC Sea’s naturalization application
6 within a reasonable time. Defendants’ failure to adjudicate SPC Sea’s naturalization
7 application for almost two years violates the APA.

8 68. As a result of Defendants’ actions and omissions, SPC Sea has suffered and
9 continues to suffer injury.

10 **Second Claim**

11 **Writ of Mandamus (28 U.S.C. § 1361)**

12 69. All of the foregoing allegations are repeated and realleged as though fully set
13 forth herein.

14 70. Defendants have a ministerial duty to SPC Sea to timely adjudicate her
15 naturalization application and to complete any other investigation required for her
16 naturalization. Defendants have failed in that duty by not adjudicating her application
17 for almost two years.

18 71. SPC Sea has no adequate remedy at law for Defendants’ failure to timely
19 adjudicate her naturalization application.

20 72. The Court should grant relief in the form of a writ of mandamus compelling
21 Defendants to adjudicate SPC Sea’s naturalization application and to follow their own
22 statutes, regulations, and policies with respect to her naturalization application.

23 73. As a result of Defendants’ actions and omissions, SPC Sea has suffered and
24 continues to suffer injury.

25 **PRAYER FOR RELIEF**

26 Plaintiff ask this Court to grant the following relief:

- 27 1. Assume jurisdiction over this matter;

- 1 2. Order Defendants to hold a naturalization interview for SPC Sea within ten (10)
- 2 days from the filing of this Complaint, and to provide a final determination on
- 3 SPC Sea's naturalization application within twenty (20) days from the filing of
- 4 this Complaint, or within such reasonable period of time as is determined by the
- 5 Court;
- 6 3. Issue a Declaratory Judgment that Defendants have violated the APA by
- 7 refusing to adjudicate SPC Sea's naturalization application in a timely manner;
- 8 4. Grant a Temporary Restraining Order and Preliminary and Permanent
- 9 Injunctions to compel Defendants to hold a naturalization interview for SPC
- 10 Sea within ten (10) days from the filing of this Complaint, and to provide a final
- 11 determination on SPC Sea's naturalization application within twenty (20) days
- 12 from the filing of this Complaint.
- 13 5. Award reasonable costs and attorneys' fees; and
- 14 6. Grant such further relief as the Court deems just and proper.

15
16 Respectfully submitted,

17
18 ACLU FOUNDATION OF
SOUTHERN CALIFORNIA

19 Dated: July 19, 2018

20 /s/ Sameer Ahmed
21 SAMEER AHMED
22 *Counsel for Plaintiff*
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