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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

REEM MUHANNA, AHMAD  
MUHANNA, ABRAHIM MOSAVI,  
NEDA BEHMANESH, and AHMED  
HASSAN,

Plaintiffs,

vs.

UNITED STATES CITIZENSHIP  
AND IMMIGRATION SERVICES;  
JEH JOHNSON, in his official capacity  
as Secretary of the U.S. Department of  
Homeland Security; LEON  
RODRIGUEZ, in his official capacity as  
Director of the U.S. Citizenship and  
Immigration Services; SARAH  
KENDALL, in her official capacity as  
Associate Director of the Fraud

Case No: 2:14-CV-05995

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

1 Detection and National Security  
2 Directorate of the U.S. Citizenship and  
3 Immigration Services (“FDNS”);  
4 DONALD J. MONICA, in his official  
5 capacity as Associate Director of the  
6 Field Operations Directorate of the U.S.  
7 Citizenship and Immigration Services;  
8 LISA KEHL, in her official capacity as  
9 District Director for District 16, Dallas  
10 District Office of the U.S. Citizenship  
11 and Immigration Services; GARY  
12 GARMAN, in his official capacity as  
13 Acting Field Office Director for the  
14 Dallas Field Office of the U.S.  
15 Citizenship and Immigration Services;  
16 ANNA CHAU, in her official capacity  
17 as Acting District Director for the  
18 District 23, Los Angeles District Office  
19 of the U.S. Citizenship and  
20 Immigration; CORRINA LUNA, in her  
21 official capacity as Field Office Director  
22 for the Los Angeles Field Office of the  
23 U.S. Citizenship and Immigration  
24 Services; DAVID DOUGLAS, in his  
25 official capacity as District Director for  
26 District 15, Kansas City of the U.S.  
27 Citizenship and Immigration Services;  
28 and LESLIE TRITTEN, in her official  
capacity as Field Office Director, for the  
St. Paul Field Office of the U.S.  
Citizenship and Immigration Services,

Defendants.

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**INTRODUCTION**

1  
2 1. This lawsuit challenges the United States Citizenship and Immigration  
3 Service’s (“USCIS”) unlawful delay and denial of Plaintiffs’ applications for  
4 citizenship and lawful permanent residence under a secretive policy that has  
5 blacklisted Plaintiffs as “national security concerns,” when in fact they are not, and  
6 impermissibly barred them from upgrading their immigration status, despite their  
7 eligibility to do so.

8 2. Plaintiffs Reem Muhanna, Ahmad Muhanna, Neda Behmanesh, Abraham  
9 Mosavi, and Ahmed Osman Hassan are law-abiding, long-time residents of the  
10 United States who meet the statutory criteria to be naturalized as American citizens  
11 or, in the case of Mr. Hassan, to become a lawful permanent resident (“LPR”)  
12 based on his refugee status. However, USCIS has not adjudicated Plaintiffs’  
13 applications in accordance with those criteria. Instead, USCIS has applied  
14 different rules under a policy known as the Controlled Application Review and  
15 Resolution Program (“CARRP”), which has prevented the agency from granting  
16 Plaintiffs’ applications.

17 3. Plaintiffs bring this action to compel the USCIS to finally—after years of  
18 waiting—adjudicate their pending applications for naturalization and LPR  
19 adjustment of status as required by law.

20 4. The Constitution expressly assigns to Congress, not the executive branch,  
21 the authority to establish uniform rules of naturalization. The Immigration and  
22 Nationality Act (“INA”) sets forth such rules, along with the requirements for  
23 refugee adjustment of status to lawful permanent residence. When these rules and  
24 requirements have been met, as they have been in Plaintiffs’ cases, USCIS is  
25 obligated to grant citizenship and adjustment of status.

26 5. Since 2008, however, USCIS has used CARRP—an internal policy that has  
27 neither been approved by Congress nor subjected to public notice and comment—  
28 to investigate and adjudicate applications deemed to present potential “national

1 security concerns.” CARRP prohibits USCIS field officers from approving an  
2 application with a potential “national security concern,” instead directing officers  
3 to deny the application or delay adjudication—often indefinitely—in violation of  
4 the INA.

5 6. CARRP’s definition of “national security concern” is far more expansive  
6 than the security-related ineligibility criteria for immigration applications set forth  
7 by Congress in the INA. Rather, CARRP identifies “national security concerns”  
8 based on deeply-flawed and expansive government watchlists, and other vague and  
9 overbroad criteria that bear little, if any, relation to the security-related statutory  
10 ineligibility criteria. The CARRP definition casts a net so wide that it brands  
11 innocent, law-abiding residents, like Plaintiffs—none of whom pose a security  
12 threat—as “national security concerns” on account of innocuous activity and  
13 associations, and characteristics such as national origin.

14 7. Although the total number of people subject to CARRP is not known,  
15 USCIS data reveals that between FY2008 and FY2012, more than 19,000 people  
16 from twenty-one Muslim-majority countries or regions were subjected to CARRP.

17 8. Due to CARRP, USCIS has not approved Plaintiffs’ applications, as the law  
18 requires. Each Plaintiff has experienced an extraordinary processing delay, an  
19 outright denial of the statutory entitlement he or she seeks, or both.

20 9. Although USCIS has barred Plaintiffs from naturalization and adjustment of  
21 status, it has not notified Plaintiffs that it considers them potential “national  
22 security concerns,” provided the reasons why it classified them in this way, or  
23 afforded them any opportunity to address and correct any basis for USCIS’s  
24 concerns.

25 10. Plaintiffs therefore request that the Court enjoin USCIS from applying  
26 CARRP to their immigration applications and declare that CARRP violates the  
27 INA; Article 1, Section 8, Clause 4 of the United States Constitution (the  
28 naturalization clause); the Due Process Clause of the Fifth Amendment to the U.S.

1 Constitution; and the Administrative Procedure Act (“APA”).

2 **JURISDICTION AND VENUE**

3 11. Plaintiffs allege violations of the INA, the APA, and the U.S. Constitution.  
4 This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. §  
5 702 (waiver of federal government’s sovereign immunity). This Court also has  
6 authority to grant declaratory relief under 28 U.S.C. §§ 2201 and 2202, and  
7 injunctive relief under 5 U.S.C. § 702 and 28 U.S.C. § 1361.

8 12. Venue is proper in the Central District of California under 28 U.S.C.  
9 §§ 1391(b) and 1391(e) because (1) Plaintiffs Abraham Mosavi and Neda  
10 Behmanesh reside in this district; (2) a substantial part of the events giving rise to  
11 the claims occurred in this district; and (3) Plaintiffs sue Defendants in their  
12 official capacity as officers of the United States.

13 **PARTIES**

14 13. Plaintiff Reem Muhanna, the wife of Plaintiff Ahmad Muhanna, is a forty-  
15 six year-old national of Palestine and an LPR of the United States. She has lived in  
16 the United States since 1988 and resides in Richardson, Texas. She applied for  
17 naturalization in May 2007. Even though she satisfies all statutory criteria for  
18 naturalization, USCIS subjected her application to CARRP, and as a result, has not  
19 finally adjudicated and approved it.

20 14. Plaintiff Ahmad Muhanna, the husband of Plaintiff Reem Muhanna, is a  
21 fifty-three year-old national of Palestine and an LPR of the United States. He has  
22 lived in the United States since 1985 and resides in Richardson, Texas. He applied  
23 for naturalization in May 2007. Even though he satisfies all statutory criteria for  
24 naturalization, USCIS subjected his application to CARRP, and as a result, has not  
25 finally adjudicated and approved it.

26 15. Plaintiff Abraham Mosavi is a sixty year-old national of Iran and an LPR of  
27 the United States. He has lived in the United States since 1977 and resides in  
28 Beverly Hills, California. He applied for naturalization nearly fourteen years ago,

1 in November 2000. Even though he satisfies all statutory criteria for  
2 naturalization, USCIS subjected his application to CARRP, and as a result, has not  
3 finally adjudicated and approved it.

4 16. Plaintiff Neda Behmanesh is a forty-five year-old national of Iran and an  
5 LPR of the United States. She has lived in the United States since 1990 and  
6 resides in Beverly Hills, California. She applied for naturalization on December 8,  
7 2011. Even though she satisfies all statutory criteria for naturalization, USCIS has  
8 subjected her application to CARRP, and as a result, has not finally adjudicated  
9 and approved it.

10 17. Plaintiff Ahmed Osman Hassan is a thirty-six year-old Somali national. He  
11 has lived in the United States as a refugee since 2004 and resides in Rochester,  
12 Minnesota. He applied for adjustment of status to lawful permanent resident on  
13 April 18, 2006. USCIS denied his application on August 7, 2012 because it  
14 claimed he was not a refugee. On November 18, 2013, he submitted a new  
15 application for adjustment of status to lawful permanent resident. Even though he  
16 satisfies all statutory criteria for refugee adjustment of status, USCIS has subjected  
17 his application to CARRP, and as a result, has not finally adjudicated and approved  
18 it.

19 18. Defendant USCIS is a component of the Department of Homeland Security  
20 (“DHS”), and is responsible for overseeing lawful immigration to the United States  
21 and the naturalization of LPRs as U.S. citizens. USCIS implements federal law  
22 and policy with respect to immigration applications, including CARRP.

23 19. Defendant Jeh Johnson is the Secretary of DHS, the department under which  
24 USCIS and several other immigration agencies operate. Accordingly, Secretary  
25 Johnson has supervisory responsibility over USCIS. Plaintiffs sue Defendant  
26 Johnson in his official capacity.

27 20. Defendant Leon Rodriguez is the Director of USCIS. Director Rodriguez  
28 establishes and implements naturalization and other immigration applications



1 policy for USCIS and its subdivisions, including CARRP. Plaintiffs sue Defendant  
2 Rodriguez in his official capacity.

3 21. Defendant Sarah Kendall is the Associate Director of the Fraud Detection  
4 and National Security Directorate of USCIS (“FDNS”), which is ultimately  
5 responsible for determining whether individuals or organizations filing  
6 naturalization and other immigration applications pose a threat to national security,  
7 public safety, or the integrity of the nation’s legal immigration system. Associate  
8 Director Kendall establishes and implements policy for FDNS, including CARRP.  
9 Plaintiffs sue Defendant Kendall in her official capacity.

10 22. Defendant Donald J. Monica is the Associate Director of the Field  
11 Operations Directorate of USCIS, which is responsible for and oversees the  
12 processing and adjudication of immigration applications through the USCIS field  
13 offices and the National Benefits Center. Plaintiffs sue Defendant Monica in his  
14 official capacity.

15 23. Defendant Lisa Kehl is the District Director for District 16, Dallas District  
16 Office of USCIS, which has responsibility for the Dallas, Texas and Oklahoma  
17 City, Oklahoma Field Offices. District Director Kehl has been delegated the  
18 authority to adjudicate immigration applications filed within her district and is  
19 responsible for the adjudication of Plaintiff Reem Muhanna’s and Plaintiff Ahmad  
20 Muhanna’s applications. Plaintiffs sue Defendant Kehl in her official capacity.

21 24. Defendant Gary Garman is the Acting Field Office Director for the Dallas  
22 Field Office of USCIS. He is the official in charge of the field office where  
23 Plaintiffs Reem Muhanna and Ahmad Muhanna submitted their naturalization  
24 applications, and he is responsible for the adjudication of their applications.  
25 Plaintiffs sue Defendant Garman in his official capacity.

26 25. Defendant Anna Chau is the Acting District Director for the District 23, Los  
27 Angeles District Office of USCIS, which has responsibility for the Los Angeles,  
28 California; Los Angeles County, California; Santa Ana, California; San



1 Bernardino, California; and San Fernando Valley, California Field Offices. Acting  
2 District Director Chau has been delegated the authority to adjudicate naturalization  
3 applications filed within her district, and is responsible for the adjudication of  
4 Plaintiff Mosavi's and Plaintiff Behmanesh's naturalization applications. Plaintiffs  
5 sue Defendant Chau in her official capacity.

6 26. Defendant Corrina Luna is the Field Office Director for the Los Angeles  
7 Field Office of USCIS. She is the official in charge of the field office where  
8 Plaintiffs Mosavi and Behmanesh submitted their naturalization applications, and  
9 she is responsible for the adjudication of their applications. Plaintiffs sue  
10 Defendant Luna in her official capacity.

11 27. Defendant David Douglas is the District Director for District 15, Kansas  
12 City of USCIS, which has responsibility for Missouri, Iowa, Western Wisconsin,  
13 Minnesota, North Dakota, South Dakota, Nebraska, Kansas, and Southern Illinois.  
14 District Director Douglas has been delegated the authority to adjudicate  
15 naturalization applications filed within his district, and is responsible for the  
16 adjudication of Plaintiff Ahmed Osman Hassan's adjustment of status application.  
17 Plaintiff sues Defendant Douglas in his official capacity.

18 28. Defendant Leslie Tritten is the Field Office Director for the St. Paul Field  
19 Office of USCIS. She is the official in charge of the field office where Plaintiff  
20 Ahmed Osman Hassan submitted his adjustment of status application, and she is  
21 responsible for the adjudication of his application. Plaintiff sues Defendant Tritten  
22 in her official capacity.

23 **LEGAL FRAMEWORK**

24 **Naturalization Procedure**

25 29. To naturalize as a U.S. citizen, an applicant must satisfy certain eligibility  
26 criteria under the INA and its implementing regulations. *See* 8 U.S.C. §§ 1421-  
27 1458; 8 C.F.R. §§ 316.1-316.14.

28 30. Applicants must prove that they are "at least 18 years of age," 8 C.F.R.

1 § 316.2(a)(1); have “resided continuously, after being lawfully admitted” in the  
2 United States “for at least five years”; and have been “physically present” in the  
3 United States for “at least half of that time.” 8 U.S.C. § 1427(a)(1).

4 31. Applicants must also demonstrate “good moral character” for the five years  
5 preceding the date of application, “attach[ment] to the principles of the  
6 Constitution of the United States, and favorabl[e] dispos[ition] toward the good  
7 order and happiness of the United States . . . .” 8 C.F.R. § 316.2(a)(7).

8 32. An applicant is presumed to possess the requisite “good moral character” for  
9 naturalization unless, during the five years preceding the date of the application,  
10 they are found (1) to be a habitual drunkard, (2) to have committed certain drug-  
11 related offenses, (3) to be a gambler whose income derives principally from  
12 gambling or has been convicted of two or more gambling offenses, (4) to have  
13 given false testimony for the purpose of obtaining immigration benefits; or if the  
14 applicant (5) has been convicted and confined to a penal institution for an  
15 aggregate period of 180 days or more, (6) has been convicted of an aggravated  
16 felony, or (7) has engaged in conduct such as aiding Nazi persecution or  
17 participating in genocide, torture, or extrajudicial killings. 8 U.S.C. § 1101(f)(6).

18 33. An applicant is barred from naturalizing for national security-related reasons  
19 in circumstances limited to those codified in 8 U.S.C. § 1424, including, *inter alia*,  
20 if the applicant has advocated, is affiliated with any organization that advocates, or  
21 writes or distributes information that advocates “the overthrow by force or violence  
22 or other unconstitutional means of the Government of the United States,” the  
23 “duty, necessity, or propriety of the unlawful assaulting or killing of any officer . . .  
24 of the Government of the United States,” or “the unlawful damage, injury, or  
25 destruction of property.”

26 34. Once an individual submits an application, USCIS conducts a background  
27 investigation, *see* 8 U.S.C. § 1446(a); 8 C.F.R. § 335.1, which includes a full FBI  
28 criminal background check, *see* 8 C.F.R. § 335.2.

1 35. After completing the background investigation, USCIS schedules a  
2 naturalization examination at which the applicant meets with a USCIS examiner  
3 for an interview.

4 36. In order to avoid inordinate processing delays and backlogs, Congress has  
5 stated “that the processing of an immigration benefit application,” which includes  
6 naturalization, “should be completed not later than 180 days after the initial filing  
7 of the application.” 8 U.S.C. § 1571(b). USCIS must either grant or deny a  
8 naturalization application within 120 days of the date of the examination. 8 C.F.R.  
9 § 335.3.

10 37. If the applicant has complied with all requirements for naturalization, federal  
11 regulations state that USCIS “*shall* grant the application.” 8 C.F.R. § 335.3(a)  
12 (emphasis added).

13 38. Courts have long recognized that “Congress is given power by the  
14 Constitution to establish an uniform Rule of Naturalization. . . . And when it  
15 establishes such uniform rule, those who come within its provisions *are entitled to*  
16 *the benefit thereof as a matter of right. . . .*” *Schwab v. Coleman*, 145 F.2d 672,  
17 676 (4th Cir. 1944) (emphasis added); *see also Marcantonio v. United States*, 185  
18 F.2d 934, 937 (4th Cir. 1950) (“The opportunity having been conferred by the  
19 Naturalization Act, there is a statutory right in the alien to submit his petition and  
20 evidence to a court, to have that tribunal pass upon them, and, if the requisite facts  
21 are established, to receive the certificate.” (quoting *Tutun v. United States*, 270  
22 U.S. 568, 578 (1926))).

23 39. Once an application is granted, the applicant is sworn in as a U.S. citizen.

24 **Refugee Adjustment of Status to Lawful Permanent Resident**

25 40. Federal law allows certain non-citizens to adjust their immigration status to  
26 that of an LPR.

27 41. Several events may trigger eligibility to adjust to LPR status, including, but  
28 not limited to, one year of residence in the United States after being granted

1 asylum or refugee status. *See, e.g.*, 8 U.S.C. §§ 1159, 1255(a).

2 42. Every individual present in the United States for at least one year who is  
3 classified as a refugee under 8 U.S.C. § 1157—and whose status has not been  
4 terminated—may apply for lawful permanent residency. *See* 8 U.S.C. § 1159(b).

5 43. Unless USCIS finds that certain grounds of inadmissibility enumerated in 8  
6 U.S.C. § 1182 apply, “USCIS *will* approve the application, admit the applicant for  
7 lawful permanent residence as of the date of the alien’s arrival in the United States,  
8 and issue proof of such status.” 8 C.F.R. § 209.1(e) (emphasis added); *see also* 8  
9 U.S.C. §1159(a)(2).

10 44. An applicant may be found inadmissible, and therefore ineligible to become  
11 a lawful permanent resident, if certain security-related grounds apply, including,  
12 *inter alia*, the applicant has engaged in terrorist activity, is a representative or  
13 member of a terrorist organization, endorses or espouses terrorist activity, or  
14 incites terrorist activity. *See* 8 U.S.C. § 1182(a)(3). USCIS’s definition of a  
15 “national security concern” in CARRP is significantly broader than these security-  
16 related grounds of inadmissibility set by Congress.

17 45. Congress has directed USCIS to process immigration benefit applications,  
18 including for adjustment of status, within 180 days. 8 U.S.C. § 1571(b).

### 19 **FACTUAL BACKGROUND**

#### 20 **The Controlled Application Review and Resolution Program (“CARRP”)**

21 46. In April 2008, USCIS created CARRP, an agency-wide policy for  
22 identifying, processing, and adjudicating immigration applications that raise  
23 “national security concerns.”

24 47. Upon information and belief, prior to CARRP’s enactment, USCIS simply  
25 delayed the adjudication of many immigration applications that raised possible  
26 “national security concerns,” in part due to backlogs created by the FBI Name  
27 Check.

28 48. Congress did not enact CARRP, and USCIS did not promulgate it as a

1 proposed rule with the notice-and-comment procedures mandated by the APA. *See*  
2 5 U.S.C. § 553(b)-(c).

3 49. Since CARRP's inception, USCIS has not made information about CARRP  
4 available to the public, except in response to Freedom of Information Act  
5 ("FOIA") requests and litigation to compel responses to those requests. In fact, the  
6 program was unknown to the public, including applicants for immigration benefits,  
7 until it was discovered in litigation challenging an unlawful denial of naturalization  
8 in *Hamdi v. USCIS*, No. EDCV 10-894 VAP (DTBx), 2012 WL 632397 (C.D. Cal  
9 Feb. 25, 2012), and then through the government's response to a FOIA request.

10 50. CARRP directs USCIS officers to screen immigration applications—  
11 including applications for asylum, visas, lawful permanent residency, and  
12 naturalization—for "national security concerns."

13 51. If a USCIS officer determines that an application presents a "national  
14 security concern," it takes the application off a "routine adjudication" track and—  
15 without notifying the applicant—places it on a CARRP adjudication track where it  
16 is subject to procedures and criteria unique to CARRP that result in lengthy delays  
17 and prohibit approvals, except in limited circumstances, regardless of an  
18 applicant's statutory eligibility.

#### 19 **CARRP's Definition of a "National Security Concern"**

20 52. According to the CARRP definition, a "national security concern" arises  
21 when "an individual or organization [that] has been determined to have an  
22 articulable link"—no matter how attenuated or unsubstantiated—"to prior, current,  
23 or planned involvement in, or association with, an activity, individual, or  
24 organization described in sections 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B)  
25 of the Immigration and Nationality Act." Those sections of the INA make  
26 inadmissible or removable any individual who, *inter alia*, "has engaged in terrorist  
27 activity" or is a member of a "terrorist organization."

28 53. For the reasons described herein, an individual need not be actually

1 suspected of engaging in *any* unlawful activity or joining *any* proscribed  
2 organization to be branded a “national security concern” under CARRP.

3 54. CARRP distinguishes between two types of “national security concerns”:  
4 those ostensibly involving “Known or Suspected Terrorists” (“KSTs”), and those  
5 ostensibly involving “non-Known or Suspected Terrorists” (“non-KSTs”).

6 55. USCIS automatically considers an applicant a KST, and thus a “national  
7 security concern,” if his or her name appears in the Terrorist Screening Database  
8 (“TSDB”) (also referred to as the Terrorist Watch List). USCIS, therefore, applies  
9 CARRP to any applicant whose name appears in the TSDB.

10 56. Upon information and belief, the TSDB includes as many as one million  
11 names, many of whom present no threat to the United States.

12 57. The government’s recently disclosed criteria for watchlist nominations,  
13 known as the Watchlisting Guidance, permits non-U.S. citizens, including LPRs, to  
14 be listed in the TSDB even where the government does not have “reasonable  
15 suspicion” of involvement with terrorist activity. The Guidance permits the  
16 watchlisting of non-citizens and LPRs simply for being associated with someone  
17 else who has been watchlisted, even when any involvement with that person’s  
18 purportedly suspicious activity is unknown. The Guidance also states explicitly  
19 that non-citizens and LPRs may be watchlisted based on fragmentary or  
20 uncorroborated information, or information of “suspected reliability.” These  
21 extremely loose standards significantly increase the likelihood that the TSDB  
22 contains information on individuals who are neither known nor appropriately  
23 suspected terrorists.

24 58. To make matters worse, the Terrorist Screening Center (“TSC”), which  
25 maintains the TSDB, has failed to ensure that innocent individuals are not  
26 watchlisted or are promptly removed from watchlists. In 2013 alone, the  
27 watchlisting community nominated 468,749 individuals to the TSDB, and the TSC  
28 rejected only approximately one percent of those nominations. In 2009, the

1 Government Accountability Office found that 35 percent of the nominations to the  
2 TSDB were outdated, and that tens of thousands of names had been placed on the  
3 list without an adequate factual basis. The Inspector General of the Department of  
4 Justice has criticized the Terrorist Screening Center, which maintains the TSDB,  
5 for employing weak quality assurance mechanisms and for failing to remove  
6 subjects from the TSDB when information no longer supports their inclusion.  
7 Public reports also confirm that the government has nominated or retained people  
8 on government watchlists as a result of human error.

9 59. The federal government's official policy is to refuse to confirm or deny give  
10 individuals' inclusion in the TSDB or provide a meaningful opportunity to  
11 challenge that inclusion. Nevertheless, individuals can become aware of their  
12 inclusion due to air travel experiences. In particular, individuals may learn that  
13 they are on the "Selectee List," a subset of the TSDB, if they have the code  
14 "SSSS" listed on their boarding passes. They may also learn of their inclusion in  
15 the TSDB if U.S. federal agents regularly subject them to secondary inspection  
16 when they enter the United States from abroad or when boarding a flight over U.S.  
17 airspace. Such individuals are also often unable to check in for flights online or at  
18 airline electronic kiosks at the airport.

19 60. Where the KST designation does not apply, CARRP instructs officers to  
20 look for "indicators" of a "non-Known or Suspected Terrorist" ("non-KST")  
21 concern.

22 61. These indicators fall into three categories: (1) statutory indicators; (2) non-  
23 statutory indicators; and (3) indicators contained in security check results.

24 62. "Statutory indicators" of a "national security concern" arise when an  
25 individual generally meets the definitions described in Sections 212(a)(3)(A), (B),  
26 and (F), and 237(a)(4)(A) and (B) of the INA (codified at 8 U.S.C. §  
27 1182(a)(3)(A), (B), and (F) and § 1227(a)(4)(A) and (B)), which list the security  
28



1 and terrorism grounds of inadmissibility and removability.<sup>1</sup> However, CARRP  
2 expressly defines statutory indicators of a “national security concern” more  
3 broadly than the statute, stating “the facts of the case *do not* need to satisfy the  
4 legal standard used in determining admissibility or removability” under those  
5 provisions of the INA to give rise to a “non-KST” “national security concern.”

6 63. For example, CARRP specifically directs USCIS officers to look at evidence  
7 of charitable donations to organizations later designated as financiers of terrorism  
8 by the U.S. Treasury Department and to construe such donations as evidence of a  
9 “national security concern,” even if an individual had made such donations without  
10 any knowledge or any reasonable way of knowing that the organization was  
11 allegedly engaged in proscribed activity. Such conduct would not make an  
12 applicant inadmissible for a visa or lawful permanent resident status under the  
13 statute, *see* INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B), nor does it have any  
14 bearing on a naturalization application.

15 64. “Non-statutory indicators” of a “national security concern” include “travel  
16 through or residence in areas of known terrorist activity”; “large scale transfer or  
17 receipt of funds”; a person’s employment, training, or government affiliations; the  
18 identities of a person’s family members or close associates, such as a “roommate,  
19 co-worker, employee, owner, partner, affiliate, or friend”; or simply “other

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20  
21 <sup>1</sup> These security and terrorism grounds of inadmissibility, if applicable, may bar an  
22 applicant from obtaining lawful permanent resident status or a visa. However, they  
23 do not bar an applicant who is already a legal permanent resident from  
24 naturalization, which is governed by the statutory provisions specific to  
25 naturalization. *See* 8 U.S.C. §§ 1421-1458. The security and terrorism provisions  
26 may also render a non-citizen removable, *see* 8 U.S.C. § 1227(a)(4), but the  
27 government has not charged any of the plaintiffs with removability under these  
28 provisions.

1 suspicious activities.”

2 65. Finally, security check results are considered indicators of a “national  
3 security concern” in instances where, for example, the FBI Name Check—one of  
4 many security checks utilized by USCIS—produces a positive hit on an applicant’s  
5 name and the applicant’s name is associated with a national security related  
6 investigatory file. Upon information and belief, this indicator leads USCIS to label  
7 applicants “national security concerns” solely because their names appear in a law  
8 enforcement or intelligence file, even if they were never the subject of an  
9 investigation. For example, an applicant’s name could appear in a law  
10 enforcement file in connection with a national security investigation because he or  
11 she once gave a voluntary interview to an FBI agent, he or she attended a mosque  
12 that was the subject of FBI surveillance, or he or she knew or was associated with  
13 someone under investigation.

14 66. Upon information and belief, CARRP labels applicants “national security  
15 concerns” based on vague and overbroad criteria that often turn on lawful activity,  
16 national origin, and innocuous associations. These criteria are untethered from the  
17 statutory criteria that determine whether or not a person is eligible for the  
18 immigration status they seek, and are so general that they necessarily ensnare  
19 individuals who pose no threat to the security of the United States.

### 20 **Delay and Denial**

21 67. Once a USCIS officer identifies a CARRP-defined “national security  
22 concern,” the application is subjected to CARRP’s rules and procedures that guide  
23 officers to deny such applications or, if an officer cannot find a basis to deny the  
24 application, to delay adjudication as long as possible.

### 25 “Deconfliction”

26 68. One such procedure is called “deconfliction,” which requires USCIS to  
27 coordinate with—and, upon information and belief, subordinate its authority to—  
28 the law enforcement agency, often the FBI, that possesses information giving rise

1 to the supposed national security concern.

2 69. During deconfliction, the relevant law enforcement agency has authority to  
3 instruct USCIS to ask certain questions in an interview or to issue a Request for  
4 Evidence (“RFE”); to comment on a proposed decision on the benefit; and to  
5 request that an application be denied, granted, or held in abeyance for an indefinite  
6 period of time.

7 70. Upon information and belief, deconfliction not only allows law enforcement  
8 or intelligence agencies to directly affect the adjudication of a requested  
9 immigration benefit, but also results in independent interrogations of the  
10 immigration applicant—or the applicant’s friends and family—by agencies such as  
11 the FBI.

12 71. Upon information and belief, USCIS often makes decisions to deny  
13 immigration applications because the FBI requests or recommends the denial, not  
14 because the person was statutorily ineligible for the benefit. The FBI often  
15 requests that USCIS hold or deny an application not because the applicant poses a  
16 threat, but because it seeks to use the pending immigration application to coerce  
17 the applicant to act as an informant or otherwise provide information.

18 “Eligibility Assessment”

19 72. In addition to “deconfliction,” once officers identify an applicant as a  
20 “national security concern,” CARRP directs officers to perform an “eligibility  
21 assessment” to determine whether the applicant is eligible for the benefit sought.

22 73. Upon information and belief, at this stage, CARRP instructs officers to look  
23 for any possible reason to deny an application so that “valuable time and resources  
24 are not unnecessarily expended” to investigate the possible “national security  
25 concern.” Where no legitimate reason supports denial of an application subjected  
26 to CARRP, USCIS officers often invent false or pretextual reasons to deny the  
27 application.

28 ///

1 “Internal Vetting”

2 74. Upon information and belief, if, after performing the eligibility assessment,  
3 an officer cannot find a reason to deny an application, CARRP instructs officers to  
4 first “internally vet” the “national security concern” using information available in  
5 DHS systems and databases, open source information, review of the applicant’s  
6 file, RFEs, and interviews or site visits.

7 75. After conducting the eligibility assessment and internal vetting, USCIS  
8 officers are instructed to again conduct “deconfliction” to determine the position of  
9 any interested law enforcement agency.

10 “External Vetting”

11 76. If the “national security concern” remains and the officer cannot find a basis  
12 to deny the benefit, the application then proceeds to “external vetting.”

13 77. During “external vetting,” USCIS instructs officers to confirm the existence  
14 of the “national security concern” with the law enforcement or intelligence agency  
15 that possesses the information that created the concern and obtain additional  
16 information from that agency about the concern and its relevance to the individual.

17 78. CARRP policy purports to authorize USCIS officers to hold applications in  
18 abeyance for periods of 180 days to enable law enforcement agents and USCIS  
19 officers to investigate the “national security concern.” The Field Office Director  
20 may extend the abeyance periods so long as the investigation remains open.

21 79. Upon information and belief, CARRP provides no outer limit on how long  
22 USCIS may hold a case in abeyance, even though the INA requires USCIS to  
23 adjudicate a naturalization application within 120 days of examination, 8 C.F.R. §  
24 335.3, and Congress has made clear its intent that USCIS adjudicate immigration  
25 applications, including for naturalization and lawful permanent residence, within  
26 180 days of filing the application. 8 U.S.C. § 1571(b).

27 Adjudication

28 80. When USCIS considers an applicant to be a KST “national security

1 concern,” CARRP forbids USCIS field officers from granting the requested benefit  
2 even if the applicant satisfies all statutory and regulatory criteria.

3 81. When USCIS considers an applicant to be a non-KST “national security  
4 concern,” CARRP forbids USCIS field officers from granting the requested benefit  
5 in the absence of supervisory approval and concurrence from a senior level USCIS  
6 official.

7 82. In *Hamdi v. USCIS*, 2012 WL 632397, when asked whether USCIS’s  
8 decision to brand naturalization applicant Tarek Hamdi as a “national security  
9 concern” affected whether he was eligible for naturalization, a USCIS witness  
10 testified at deposition that “it doesn’t make him statutorily ineligible, but because  
11 he is a—he still has a national security concern, it affects whether or not we can  
12 approve him.” The witness testified that, under CARRP, “until [the] national  
13 security concern [is] resolved, he won’t get approved.”

14 83. Upon information and belief, USCIS often delays adjudication of  
15 applications subject to CARRP when it cannot find a reason to deny the  
16 application. When an applicant files a mandamus action to compel USCIS to  
17 finally adjudicate his or her pending application, it often has the effect of forcing  
18 USCIS to deny a statutorily-eligible application because CARRP prevents agency  
19 field officers from granting an application involving a “national security concern.”

20 84. CARRP effectively creates two substantive regimes for immigration  
21 application processing and adjudication: one for those applications subject to  
22 CARRP and one for all other applications. CARRP rules and procedures create  
23 substantive eligibility criteria that exclude applicants from immigration benefits to  
24 which they are entitled by law.

25 85. At no point during the CARRP process is the applicant made aware that he  
26 or she has been labeled a “national security concern,” nor is the applicant ever  
27 provided with an opportunity to respond to and contest the classification.

28 86. Upon information and belief, CARRP results in extraordinary processing

1 and adjudication delays, often lasting many years, and baseless denials of  
2 statutorily-eligible immigration applications.

3 **Facts Specific To Each Plaintiff**

4 ***Ahmad Shawky Muhanna and Reem Yousef Muhanna***

5 87. Plaintiffs Ahmad Shawky Muhanna and Reem Yousef Muhanna are  
6 nationals of Palestine and LPRs of the United States. Mr. Muhanna is fifty-four  
7 years old and Ms. Muhanna is forty-six years old. They are residents of  
8 Richardson, Texas.

9 88. Ahmad Muhanna moved to the United States in 1985 to study at the  
10 University of Wisconsin-Madison. He earned a master's degree there, and then a  
11 doctorate degree from North Carolina State University ("NCSU") in civil  
12 engineering.

13 89. In December 1988, Mr. Muhanna married Reem Yousef in Raleigh, North  
14 Carolina.

15 90. In 1991, Ms. Muhanna graduated *summa cum laude* from NCSU with a  
16 bachelor's degree in electrical engineering, and, in 1994, she earned a master's  
17 degree in from NCSU in the same field.

18 91. In December 1995, the couple moved to Texas after Ms. Muhanna accepted  
19 a job there. They have lived in Dallas suburbs ever since.

20 92. The Muhannas each became LPRs in 2002.

21 93. The Muhannas both applied for naturalization in May 2007.

22 94. The Muhannas resided continuously in the United States for at least five  
23 years preceding the date of filing their applications for naturalization, and have  
24 resided continuously within the United States from the date of filing their  
25 applications until the present.

26 95. Neither Mr. Muhanna nor Ms. Muhanna ever been convicted of any crime.

27 96. Mr. and Ms. Muhanna are Muslim and active participants in their religious  
28 community. Every year they donate roughly three percent of their annual income

1 to humanitarian causes in accordance with the teachings of Islam.

2 97. Some time before they filed their naturalization applications, the Muhannas  
3 began experiencing problems when they tried to travel, both domestically and  
4 internationally. Mr. and Ms. Muhanna's boarding passes are routinely marked  
5 with the code "SSSS," indicating that they are on the Selectee List , a subset of the  
6 TSDB.

7 98. The Muhannas regularly have trouble checking in for flights. Mr. Muhanna  
8 has not been able to check in for flights online. In addition, on numerous  
9 occasions when Mr. Muhanna was overseas, airline officials would not check him  
10 in for his flight until an airline official communicated with officials in Washington,  
11 D.C. and those officials cleared him for travel. On one occasion, U.S. government  
12 officials prevented Mr. and Ms. Muhanna from boarding a flight from Canada to  
13 the U.S., stating that they needed to check with officials in Washington, D.C.  
14 before they could allow him to board the flight. After making them wait for many  
15 hours and miss their flight, the officials finally permitted them to board a new  
16 flight and return home.

17 99. Upon information and belief, Mr. and Ms. Muhanna's applications were  
18 subjected to CARRP in 2008, after USCIS adopted the policy.

19 100. Beginning in August 2009—years after Mr. and Ms. Muhanna filed their  
20 N400s and after USCIS canceled two appointments for their interviews on their  
21 naturalization applications—FBI agents made approximately six separate visits to  
22 the Muhannas' home and to Mr. Muhanna's work place.

23 101. On each occasion, the Muhannas instructed the agents to speak with their  
24 attorney, who in turn requested that the agents submit written questions for the  
25 Muhannas to answer. The FBI agents never provided the questions.

26 102. Upon information and belief, the visits were the product of the CARRP's  
27 "deconfliction" process.

28 103. In July 2011, Mr. and Ms. Muhanna filed writs of mandamus in federal court



1 to compel USCIS to schedule interviews on their naturalization applications. As a  
2 result, USCIS finally interviewed Mr. and Ms. Muhanna in October 2011.

3 104. Mr. and Ms. Muhanna testified truthfully and to the best of their ability in  
4 their interviews, and both volunteered information about their past contacts with  
5 members of the Holy Land Foundation (“HLF”), which was an Islamic charity.

6 105. The Muhannas passed the U.S. civics tests during their respective  
7 naturalization examinations, but the USCIS examining officers told them that  
8 decisions could not be made at that time and instead requested additional  
9 information, such as copies of old passports and tax documents.

10 106. On February 4, 2012, USCIS denied the Muhannas’ naturalization  
11 applications, alleging that they lacked the requisite “good moral character” for  
12 testifying falsely about their alleged affiliation with the HLF, even though they  
13 both voluntarily disclosed the totality of their interactions with the organization.

14 107. In March 2012, the Muhannas timely filed administrative appeals contesting  
15 the USCIS’s denials.

16 108. In September 2012, USCIS conducted interviews of Mr. and Ms. Muhanna  
17 on their administrative appeals. At the conclusion of these interviews, the  
18 examining USCIS officers said that a decision would be made within sixty days.

19 109. To date, USCIS has not made a determination on the Muhannas’  
20 applications.

21 110. Upon information and belief, Mr. and Ms. Muhanna are on the Selectee List  
22 and therefore are included in the TSDB, as indicated by the “SSSS” code that  
23 appears on their boarding passes when they travel and by their consistent travel  
24 difficulties. USCIS, therefore, considers them KST “national security concerns.”

25 111. Upon information and belief, USCIS also may consider them non-KST  
26 “national security concerns” because they have “travel[ed] through or reside[d] in  
27 areas of known terrorist activity”—mainly Palestine—and because of their  
28 donations to certain Islamic charities.

1 112. Upon information and belief, Mr. and Ms. Muhanna's applications are  
2 subject to CARRP, which caused the delay in the adjudication of their applications,  
3 the ultimate denial of their applications, and the current delay in adjudication of  
4 their appeals, despite the fact that they are statutorily-entitled to naturalize.

5 *Abraham Mosavi*

6 113. Plaintiff Abraham Mosavi is a citizen of Iran and an LPR of the United  
7 States. He is sixty years old, and a resident of Beverly Hills, California.

8 114. Mr. Mosavi came to the United States as a student in the late 1970s and has  
9 resided in the United States ever since.

10 115. Mr. Mosavi became an LPR in 1987.

11 116. On November 20, 2000, Mr. Mosavi applied for naturalization.

12 117. He resided continuously in the United States for at least five years  
13 immediately preceding the date of filing his application for naturalization, and he  
14 has resided continuously within the United States from that date until the present.

15 118. Mr. Mosavi has never been convicted of a crime.

16 119. Since 2001, Mr. Mosavi has traveled on occasion to Iran to visit family.  
17 Since then, every time Mr. Mosavi returns to the United States, federal government  
18 agents, after reviewing his personal information at the immigration checkpoint,  
19 escort him to secondary inspection, during which they search and question him.  
20 Upon information and belief, federal government officials always subject him to  
21 secondary inspection because he is in the TSDB.

22 120. On June 18, 2001, Mr. Mosavi attended his naturalization examination. A  
23 USCIS officer told him he passed the examination, but that his case would be  
24 continued for supervisory review.

25 121. Nearly ten years passed before USCIS adjudicated his application. During  
26 this time, Mr. Mosavi inquired with USCIS on the status of his application on  
27 numerous occasions through letters and Infopass, a service that allows an applicant  
28 to schedule an appointment with a USCIS officer.

1 122. Upon information and belief, prior to 2008, USCIS’s adjudication of Mr.  
2 Mosavi’s application was delayed, at least in part, due to the FBI Name Check  
3 backlog in processing immigration applications. Once CARRP was adopted in  
4 2008, Mr. Mosavi’s application became subject to CARRP.

5 123. On February 11, 2010, USCIS denied his application on grounds that he  
6 failed to submit information requested by the agency.

7 124. Mr. Mosavi contested this determination and, on March 11, 2010, he filed an  
8 administrative appeal with an accompanying letter-brief, which demonstrated that  
9 he had provided all of the requested information.

10 125. On July 16, 2010, Mr. Mosavi attended a hearing on his administrative  
11 appeal and provided even more information after additional requests by USCIS.

12 126. Two years later, on August 24, 2012, a USCIS decision denying his  
13 administrative appeal asserted that USCIS had denied his naturalization application  
14 “because during the statutory period, [he was] continuously absent from the United  
15 States from November 15, 2008 through June 6, 2010”—which was not only  
16 impossible considering that USCIS issued its decision on his naturalization  
17 application on February 11, 2010, but was also factually erroneous because USCIS  
18 had not denied his application on those grounds.

19 127. On September 26, 2012, Mr. Mosavi moved to reopen and reconsider the  
20 denial of his appeal because of these obvious factual errors. USCIS granted his  
21 motion to reopen in October 2012 and agreed to reconsider its decision.

22 128. On September 23, 2013, Mr. Mosavi appeared for a second hearing on his  
23 reopened administrative appeal. In accordance with USCIS’s request, he again  
24 submitted extensive additional information.

25 129. At the conclusion of the September 2013 hearing, the USCIS officer told  
26 Mr. Mosavi that he would receive a decision within thirty days.

27 130. At present, Mr. Mosavi is still waiting for a decision on his administrative  
28 appeal.

1 131. Upon information and belief, Mr. Mosavi is in the TSDB, as indicated by the  
2 fact that U.S. officials always subject him to secondary inspection. USCIS,  
3 therefore, considers him a KST “national security concern.”

4 132. Upon information and belief, USCIS considers him a non-KST “national  
5 security concern” because of his frequent travel to Iran.

6 133. Upon information and belief, Mr. Mosavi’s naturalization application is  
7 subject to CARRP, which caused undue delay in the adjudication of his  
8 application, the ultimate denial of his application, and the current delay in  
9 adjudication of his appeal, despite his statutory entitlement to naturalize.

10 ***Neda Behmanesh***

11 134. Plaintiff Neda Behmanesh is a citizen of Iran and an LPR of the United  
12 States. She is forty-five years old and a resident of Beverly Hills, California.

13 135. Ms. Behmanesh came to the United States on a tourist visa in 1990 and has  
14 resided in the United States ever since.

15 136. Ms. Behmanesh married a United States citizen on October 17, 2003. Based  
16 on that marriage, USCIS granted her LPR status on February 8, 2005.

17 137. Ms. Behmanesh filed her naturalization application on December 8, 2011.

18 138. Ms. Behmanesh has not traveled outside the United States since her arrival  
19 in 1990. She has resided continuously in the United States for at least five years  
20 immediately preceding the date of filing her application for naturalization, and has  
21 resided continuously within the United States from the date of filing her  
22 application until the present.

23 139. Ms. Behmanesh has never been convicted of a crime.

24 140. On April 16, 2012, Ms. Behmanesh attended her naturalization examination.  
25 She received a notice indicating that she passed the examination, but that a  
26 decision could not be made on her application at that time.

27 141. On September 4, 2012, USCIS denied her application, asserting that Ms.  
28 Behmanesh failed to establish she was an LPR because the marriage on which her

1 LPR status was based was fraudulent. USCIS claimed the FBI had records  
2 indicating Ms. Behmanesh was dating and living with another man during her  
3 marriage. That claim is demonstrably false.

4 142. Ms. Behmanesh was involved in a relationship with this other man *prior* to  
5 her marriage.

6 143. During this relationship, the man became the subject of an FBI investigation  
7 on suspicion that he tried to cash counterfeit checks.

8 144. Ms. Behmanesh became aware of this investigation around 2002, when FBI  
9 agents approached her for an interview about him. He was eventually arrested,  
10 convicted, and sentenced to prison for his federal crimes.

11 145. Contrary to the assertions of USCIS, at the time Ms. Behmanesh married in  
12 October 2003, this other man was *incarcerated*, not living with her.

13 146. Ms. Behmanesh contested the denial of her naturalization application by  
14 filing an administrative appeal on October 2, 2012. She submitted evidence  
15 demonstrating that her former boyfriend was in custody at the time she married her  
16 husband, that she resided with her husband after their marriage, and that her  
17 marriage was indeed bona fide. This supporting evidence included a notarized  
18 affidavit from her (now former) husband.

19 147. Although USCIS accused Ms. Behmanesh of fraudulently obtaining her  
20 lawful permanent residency, the agency never initiated removal proceedings.

21 148. On August 28, 2013, Ms. Behmanesh attended a hearing on her  
22 administrative appeal. At that hearing, a USCIS agent told her that USCIS had set  
23 aside its previous denial and had reopened her naturalization application.

24 149. At present, she is still waiting for a decision on her reopened application.

25 150. Upon information and belief, USCIS considers Ms. Behmanesh a non-KST  
26 “national security concern” because the FBI Name Check revealed that she was a  
27 subject of the investigation of her former boyfriend.

28 151. As a result, Ms. Behmanesh’s application is subject to CARRP, which

1 caused the denial of her application, and the current delay in adjudication of her  
2 appeal, despite her statutory entitlement to naturalize.

3 *Ahmed Osman Hassan*

4 152. Plaintiff Ahmed Osman Hassan is a citizen of Somalia and a refugee  
5 residing lawfully in the United States. He is thirty-six years old, and a resident of  
6 Rochester, Minnesota.

7 153. On February 25, 2004, after spending fourteen years in a refugee camp in  
8 Kenya, Mr. Hassan moved to the United States and was admitted as a refugee. He  
9 has lived in the United States ever since then.

10 154. The United Nations High Commissioner for Refugees and the United States  
11 conferred refugee status on Mr. Hassan based on his membership in the Tuni clan,  
12 a minority clan that suffers persecution in Somalia at the hands of the dominant  
13 Hawiye tribe.

14 155. Mr. Hassan is Muslim.

15 156. On or about April 18, 2006, Mr. Hassan submitted an application for  
16 adjustment of status to LPR, along with supporting documentation.

17 157. Mr. Hassan has never been convicted of a crime.

18 158. Upon information and belief, Mr. Hassan's application became subject to  
19 CARRP in 2008, after USCIS adopted the policy.

20 159. According to Mr. Hassan's immigration "Alien file," on July 7, 2008, there  
21 was a positive response to his name in the FBI Name Check. As of August 20,  
22 2009, that positive response reflected that USCIS considers him a KST "national  
23 security concern."

24 160. According to Mr. Hassan's immigration "Alien file," USCIS subjected his  
25 application to CARRP, and conducted deconfliction in August 2009.

26 161. In 2009, an FBI agent approached Mr. Hassan at his home in Las Vegas,  
27 Nevada. The agent told him that she knew he was waiting for USCIS to make a  
28 decision on his adjustment of status application and that she could help him if he

1 agreed to work as an informant for the FBI in the Las Vegas Muslim community.  
2 She asked Mr. Hassan to go to mosques in the Las Vegas area and report back to  
3 the FBI about people who attended the mosques and their activities.

4 162. Mr. Hassan declined to become an informant at area mosques for the FBI.  
5 On a number of occasions, however, Mr. Hassan agreed to talk with the FBI and to  
6 answer their questions.

7 163. In or around December 2009, the FBI told Mr. Hassan that he was not being  
8 cooperative enough, and then communication between the FBI and Mr. Hassan  
9 ceased.

10 164. Upon information and belief, the FBI visits, the FBI's offer to assist him  
11 with his immigration application, and the ultimate actions by USCIS in his  
12 immigration case are the products of CARRP's "deconfliction" process. The FBI  
13 influenced USCIS to deny Mr. Hassan's adjustment application and revoke his  
14 refugee status in retaliation for his refusal to become an informant.

15 165. According to Mr. Hassan's immigration file, on September 8, 2009, March  
16 16, 2010, and May 10, 2010, the Joint Terrorism Task Force ("JTTF")—a  
17 partnership of law enforcement agencies led by the FBI—requested information  
18 relating to Mr. Hassan's adjustment of status application from USCIS.

19 166. On January 18, 2011, the USCIS Las Vegas Field Office began CARRP  
20 adjudication.

21 167. On January 31, 2011, according to Mr. Hassan's immigration file, USCIS  
22 issued a Notice of Intent to Terminate Mr. Hassan's refugee status. Mr. Hassan  
23 never received this notice.

24 168. On March 9, 2011, USCIS issued a Notice of Termination of Refugee Status  
25 to Mr. Hassan on the grounds that he "may have" misrepresented himself as a  
26 member of the Tuni clan. Mr. Hassan informed USCIS that he never received any  
27 notification of the agency's intent to terminate his status and demanded an  
28 opportunity to respond pursuant to 8 C.F.R. § 207.9.



1 169. On May 10, 2012, USCIS issued a Notice of Intent to Terminate Mr.  
2 Hassan's refugee status, and again alleged that he "may have" misrepresented  
3 himself as a member of the Tuni clan. The Notice did not provide any evidence or  
4 description to support its allegation. Mr. Hassan received this notice and  
5 responded by submitting affidavits from several witnesses attesting to his  
6 membership in the Tuni clan.

7 170. On August 3, 2012, USCIS issued a second Notice of Termination of Mr.  
8 Hassan's refugee status, again on the grounds that he "may have" misrepresented  
9 himself as a member of the Tuni clan. USCIS neither provided nor described any  
10 evidence to support its conclusion.

11 171. On August 7, 2012, four days after terminating his refugee status and over  
12 six years after Mr. Hassan filed his application, USCIS denied his adjustment of  
13 status application on the ground that he was not a refugee and was therefore  
14 ineligible for LPR status. Despite USCIS's mandatory obligation to inform Mr.  
15 Hassan that he could renew his request for permanent residence in removal  
16 proceedings, *see* 8 C.F.R. § 209.1(e), the denial letter instead stated that Mr.  
17 Hassan was required to leave the United States within thirty days or be subject to  
18 removal.

19 172. In an effort to comply with the letter, Mr. Hassan attempted to leave the  
20 United States and to enter Canada through a land border crossing on or around  
21 August 23, 2012.

22 173. At the Canadian border, Mr. Hassan requested asylum. However, the  
23 Canadian authorities returned him to the United States, and DHS authorities  
24 initiated removal proceedings against him.

25 174. According to a DHS record in Mr. Hassan's immigration file, DHS officials  
26 contacted the FBI, including an FBI case agent in Las Vegas, about Mr. Hassan  
27 during his detention on the border. The record states the "FBI requested that  
28 agents ask [Mr. Hassan] for a written statement renouncing all immigration and

1 refugee benefits in the United States. HASSAN declined to cooperate.”

2 175. On August 21, 2013, an immigration judge terminated removal proceedings  
3 against Mr. Hassan, finding that Mr. Hassan was still a refugee because USCIS had  
4 improperly terminated his refugee status.

5 176. On November 18, 2013, Mr. Hassan submitted a new application for  
6 adjustment of status to LPR. To date, that application remains pending.

7 177. Upon information and belief, USCIS’s delay in adjudicating Mr. Hassan’s  
8 first request for adjustment of status, its attempts to terminate his refugee status  
9 and deny that application, and its delayed adjudication of his current application,  
10 even though he is statutorily-eligible to adjust, are due to CARRP.

11 **FIRST CLAIM FOR RELIEF**

12 **Immigration and Nationality Act and Implementing Regulations**

13 **(Plaintiffs Ahmad Muhanna, Reem Muhanna,**

14 **Abraham Mosavi, and Neda Behmanesh)**

15 178. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully  
16 set forth herein.

17 179. To secure naturalization, an applicant must satisfy certain statutorily-  
18 enumerated criteria.

19 180. By its terms, CARRP creates additional, non-statutory, substantive criteria  
20 that must be met prior to a grant of a naturalization application.

21 181. Accordingly, CARRP violates 8 U.S.C. § 1427, 8 C.F.R. § 316.2, and 8  
22 C.F.R. § 335.3, as those provisions set forth the exclusive applicable statutory and  
23 regulatory criteria for a grant of naturalization.

24 182. Because of this violation and because CARRP’s additional, non-statutory,  
25 substantive criteria have been applied to Plaintiffs, Plaintiffs have suffered and  
26 continue to suffer injury in the form of unreasonable delays and unwarranted  
27 denials of their applications for naturalization.

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**SECOND CLAIM FOR RELIEF**

**Immigration and Nationality Act and Implementing Regulations  
(Plaintiff Ahmed Osman Hassan)**

183. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

184. To secure adjustment of status from refugee to LPR, an applicant must satisfy certain statutorily-enumerated criteria.

185. By its terms, CARRP creates additional, non-statutory, substantive criteria that must be met prior to a grant of adjustment of status to LPR.

186. Accordingly, CARRP violates 8 U.S.C. § 1159 and 8 C.F.R. § 209.1, as those provisions set forth the exclusive applicable statutory and regulatory criteria for refugees to adjust their status.

187. Because of this violation and because CARRP's additional, non-statutory, substantive criteria have been applied to Plaintiff Hassan, Plaintiff Hassan has suffered and continues to suffer injury in the form of unreasonable delays and unwarranted denials of his application for LPR status.

**THIRD CLAIM FOR RELIEF**

**“Uniform Rule of Naturalization”  
(Plaintiffs Ahmad Muhanna, Reem Muhanna,  
Abraham Mosavi, and Neda Behmanesh)**

188. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully set forth herein.

189. Congress has the sole power to establish criteria for naturalization, and any additional requirements, not enacted by Congress, are *ultra vires*.

190. By its terms, CARRP creates additional, non-statutory, substantive criteria that must be met prior to a grant of a naturalization application.

191. Accordingly, CARRP violates Article I, Section 8, Clause 4 of the United States Constitution.

1 192. Because of this violation and because CARRP's additional, non-statutory,  
2 substantive criteria have been applied to Plaintiffs, all Plaintiffs (except for  
3 Plaintiff Hassan) have suffered and continue to suffer injury in the form of  
4 unreasonable delays and unwarranted denials of their naturalization applications.

5 **FOURTH CLAIM FOR RELIEF**

6 **Administrative Procedure Act (5 U.S.C. § 706)**

7 **(All Plaintiffs)**

8 193. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully  
9 set forth herein.

10 194. CARRP constitutes final agency action that is arbitrary and capricious  
11 because it "neither focuses on nor relates to a [non-citizen's] fitness to" obtain the  
12 immigration benefits subject to its terms. *Judulang v. Holder*, 132 S. Ct. 476, 485  
13 (2011).

14 195. CARRP is also not in accordance with law, is contrary to constitutional  
15 rights, and is in excess of statutory authority because it violates the INA and  
16 exceeds USCIS's statutory authority to implement (not create) the immigration  
17 laws, as alleged herein.

18 196. As a result of these violations, Plaintiffs have suffered and continue to suffer  
19 injury in the form of unreasonable delays and unwarranted denials of their  
20 immigration applications.

21 **FIFTH CLAIM FOR RELIEF**

22 **Administrative Procedure Act (Notice and Comment)**

23 **(All Plaintiffs)**

24 197. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully  
25 set forth herein.

26 198. The APA, 5 U.S.C. § 553, requires administrative agencies to provide a  
27 notice-and-comment period prior to implementing a substantive rule.

28 199. CARRP constitutes a substantive agency rule within the meaning of 5

1 U.S.C. § 551(4).

2 200. Defendants failed to provide a notice-and-comment period prior to the  
3 adoption of CARRP.

4 201. Because CARRP is a substantive rule promulgated without the notice-and-  
5 comment period, it violates 5 U.S.C. § 553 and is therefore invalid.

6 202. As a result of these violations, Plaintiffs have suffered and continue to suffer  
7 injury in the form of unreasonable delays and unwarranted denials of their  
8 immigration applications.

9 **SIXTH CLAIM FOR RELIEF**

10 **Fifth Amendment (Procedural Due Process)**

11 **(All Plaintiffs)**

12 203. Plaintiffs incorporate the allegations of the preceding paragraphs as if fully  
13 set forth herein.

14 204. Plaintiffs' compliance with the statutory and regulatory requirements  
15 established in 8 U.S.C. § 1427 and 8 C.F.R. § 316.2 (for naturalization applicants),  
16 and in 8 U.S.C. § 1159 and 8 C.F.R. § 335.3 (for adjustment of status applicants),  
17 vests in them a constitutionally protected property and liberty interest.

18 205. This constitutionally-protected property or liberty interest triggers  
19 procedural due process protection.

20 206. Defendants' failure to give Plaintiffs notice of their classification under  
21 CARRP, a meaningful explanation of the reason for such classification, and any  
22 process by which Plaintiffs can challenge their classification, violates the Due  
23 Process Clause of the Fifth Amendment to the United States Constitution.

24 207. Because of this violation, Plaintiffs have suffered and continue to suffer  
25 injury in the form of unreasonable delays and unwarranted denials of their  
26 immigration applications.

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**PRAAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court grant the following relief:

1. Enter a judgment declaring that (a) CARRP violates the INA and its implementing regulations; Article 1, Section 8, Clause 4 of the United States Constitution; the Fifth Amendment to the United States Constitution; and the APA; and (b) Defendants violated the APA by adopting CARRP without promulgating a rule and following the process for notice and comment by the public;
2. Enjoin Defendants, their subordinates, agents, employees, and all others acting in concert with them from applying CARRP to the processing and adjudication of Plaintiffs’ immigration benefit applications;
3. Order Defendants to rescind CARRP because they failed to follow the process for notice and comment by the public;
4. Award Plaintiffs reasonable attorneys’ fees and costs; and
5. Grant any other relief that this Court may deem fit and proper.

Dated: July 31, 2014

Respectfully submitted,

By: /s/ Jennifer L. Pasquarella  
JENNIFER L. PASQUARELLA  
ACLU Foundation of Southern  
California