

# EXHIBIT A



LAW OFFICES OF  
STACY TOLCHIN



**WAGAFE v. TRUMP**  
**NOTICE TO POTENTIAL CLASS MEMBERS**

*Wagafe v. Trump*, No. 2:17-cv-00094-RAJ (W.D. Wash.) is a class action lawsuit challenging the Controlled Application Review and Resolution Program (“CARRP”) and successor “extreme vetting” programs that have led to unreasonable delays and denials of naturalization (or U.S. citizenship) and adjustment of status (or green card) applications by USCIS.

An individual is a *Wagafe* class member if:

1. Their naturalization application has been pending for six months and is subject to CARRP or a successor “extreme vetting” program; or
2. Their adjustment of status application has been pending for six months and is subject to CARRP or a successor “extreme vetting” program.

If your naturalization or adjustment of status application has been pending for more than six months, you may be a member of this class action lawsuit. While USCIS will not confirm or deny whether your application has been subject to CARRP or a successor extreme vetting program, USCIS has produced to class counsel a list of *Wagafe* class members. However, the Court has ordered that class counsel cannot publicly disclose whether anyone is a class member and/or whether a particular application has been subject to CARRP.

That said, if you are a class member, class counsel may be able to advocate with USCIS or the District Court on your behalf in the *Wagafe* case. If class counsel did so, class counsel would assert that your application should not be subject to CARRP or any successor “extreme vetting” program. However, class counsel would not be able to contact you to provide you any information about your application absent further order from the Court. Please let class counsel know if we have your consent to use your information in this way.

You may contact class counsel at: [sydney@nwirp.org](mailto:sydney@nwirp.org) or (206) 816-3866.

# EXHIBIT B

**From:** [Gellert, Nicholas \(SEA\)](#)  
**To:** [Busen, Jesse \(CIV\)](#)  
**Cc:** [Braga, Victoria M. \(CIV\)](#); [Brinkman, Andrew \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Moore, Brendan T. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#); [Davis, Kathryn C \(CIV\)](#); [Flentje, August \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Sepe, Cristina \(SEA\)](#); [Jennie Pasquarella](#); [Matt Adams \(matt@nwirp.org\)](#); [Perez, David A. \(SEA\)](#)  
**Subject:** Wagafe v. Trump  
**Date:** Friday, December 13, 2019 6:13:38 PM

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Jesse – Addressing one of the topics discussed on Wednesday:

Defendants have asked for more details as to plaintiffs' counsels' intentions for interviewing potential class members from whom we have heard from with respect to the notice that we distributed with the Court's approval. Presumptively, these persons (or their clients in the instances that we heard from attorneys) suspect that their applications have been subjected to CARRP, which is why we have heard from them with respect to the notice. To be clear, while we will not confirm they are class members even if asked or pressed, they have all reached out to us because they already believe themselves to be subject to CARRP. Nonetheless, we will not confirm class membership. Our intention would be to conduct interviews to determine whether they are appropriate witnesses in this litigation. Where we heard from individuals (not their attorney), inquiry if they are represented by an attorney, and, if so, make arrangements to have attorney participate before proceeding. Where we heard from attorneys, inquiry whether the attorneys would prefer that we only speak with them or whether arrangements should be made for clients to participate before proceeding. We would limit our inquiry to the following:

1. Why they contacted us with respect to the notice.
2. Do they or their client have a pending application for immigration benefits, and if so what type of application.
3. When the application was filed; whether and when the applicant received a decision on the application; and if a decision was obtained, what the decision was and, if it was a denial, what basis was provided for the denial.
4. If the application was pending for longer than six months, what where they told (and when) for the delay in processing.
5. Were they ever informed whether or not the application was subjected to CARRP or a special vetting program.
6. If the application was pending for longer than six months, have there been personal or familial consequences associated with the delay in receiving a decision. (If so, we would make arrangements for the documents to be delivered or sent.)
7. Would they be willing to provide us documents associated with their application and the adjudication of their application.
8. Would they be willing to be considered a potential witness in our litigation (where being a witness would result in the government being informed that they contacted us and were willing to testify about their situation).

We would anticipate that the initial interview would be by telephone, though it is possible that the

initial phone call would be to set up an in person meeting. We would anticipate that from the initial call we believed someone was likely to be considered as a witness, we would want to arrange an in person meeting to meet them to discern their demeanor and to discuss with them in a bit more detail what being a witness might entail. We would not discuss with them why we would be interested in them as a witness or otherwise suggest to them that only class members (i.e., those subjected to CARRP) would be appropriate witnesses.

We reiterate that we believe that all these persons already suspect that they have been subjected to CARRP, so we see no risk to the government in what we are suggesting. We look forward to your prompt response to this request. Given pending deadlines, we must insist that you provide us your position by the close of business on Tuesday, December 17.

Nick

# EXHIBIT C

**From:** [Brinkman, Andrew \(CIV\)](#)  
**To:** [Gellert, Nicholas \(SEA\)](#); [Busen, Jesse \(CIV\)](#)  
**Cc:** [Braga, Victoria M. \(CIV\)](#); [Kanter, Ethan \(CIV\)](#); [Kipnis, Brian \(USAWAW\)](#); [Moore, Brendan T. \(CIV\)](#); [Slack, Michelle R \(CIV\)](#); [Taranto, Leon B. \(CIV\)](#); [Davis, Kathryn C \(CIV\)](#); [Flentje, August \(CIV\)](#); [Murphy, Lindsay M. \(CIV\)](#); [Sepe, Cristina \(SEA\)](#); [Jennie Pasquarella](#); [Matt Adams \(matt@nwirp.org\)](#); [Perez, David A. \(SEA\)](#); [Brinkman, Andrew \(CIV\)](#)  
**Subject:** RE: Wagafe v. Trump  
**Date:** Wednesday, December 18, 2019 6:00:50 PM

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Nick,

Regarding your email seeking Defendants' consent for Plaintiffs' counsel to reach out to six individuals who responded to Plaintiffs' class notice, USCIS does not publicly confirm or deny whether an individual's immigration benefit application is being (or has been) subjected to the CARRP process. We have repeatedly articulated to the Court why such information is protected by law enforcement privilege, supported by declarations from USCIS, FBI, CBP, and ICE officials. *See, e.g.*, Dkt. 126. Given the risks of disclosing such information, Judge Jones ultimately agreed with our position that Plaintiffs' attorneys should not disclose whether or not a particular individual's immigration benefit application is being (or has been) subjected to the CARRP process. In one order, he wrote, "Plaintiffs' counsel, and any person acting on their behalf, are prohibited from either disclosing to any individual who contacts them whether that individual is an unnamed member of either the Naturalization Class or Adjustment-of-Status class, or contacting the unnamed plaintiff members of the Naturalization Class and Adjustment-of-Status class for any purpose absent prior order of this Court." *See* Dkt. 183. In a later order, he permitted Plaintiffs' counsel to post a class notice because the notice itself did "not disclose whether or not any particular individual was ever, or is, subject to CARRP." Dkt. 274.

We considered your proposal to speak with six "potential class members" who responded to your class notice (and/or their counsel). We also understand that you would not explicitly "confirm [that the six individuals] are class members even if asked or pressed." However, by reaching out to these six individuals who responded to your class notice (and reaching out to any unnamed class members, including the four randomly-selected class members for whom Defendants' provided you with A-files), it is our position that you would be implicitly confirming that each individual's immigration benefit application is being (or has been) subjected to the CARRP process. Indeed, if their applications were not subjected to the CARRP process, there would be no reason for you to contact them or their counsel in connection with this case. Thus, we do not think your proposal sufficiently guards against the risk of disclosing whether or not the six individuals' immigration benefit applications are being (or have been) subjected to the CARRP process.

Relatedly, this is a class action, and the two certified classes are purportedly represented by the five named plaintiffs. It is unclear to us how the testimony of any unnamed class members would be relevant where you have argued that the named plaintiffs are adequate representatives of the class. As Judge Jones said, "The common question here is whether CARRP is lawful. The answer is 'yes' or 'no.' The answer to this question will not change based on facts particular to each class member, because each class member's application was (or will be) subjected to CARRP." Dkt. 69.

On the separate matter raised during the December 11<sup>th</sup> meet and confer concerning Plaintiffs' intention to move to compel disclosure of redacted information contained in approximately 50 unspecified documents, we have repeatedly requested (in three separate emails on December 12<sup>th</sup>, 13<sup>th</sup>, and 17<sup>th</sup>) that you identify those documents so that Defendants can begin reviewing them prior to the upcoming holiday and potentially narrow or reach agreement with Plaintiffs short of litigation. There are only two days remaining this week in which to conduct the necessary assessment and interagency coordination. Next week poses obvious conflicts, and the following week is interrupted by the New Year. Failing to give Defendants the documents sufficiently in

advance, or at all, is incompatible with the requirement to meet and confer to resolve disputes prior to filing discovery motions. Thus we request that you provide Defendants with your document list by COB today.

Regards,  
Drew

Drew Brinkman  
Senior Counsel for National Security  
United States Department of Justice  
Office of Immigration Litigation – Appellate Section  
(202) 305-7035

THIS EMAIL MAY CONTAIN ATTORNEY-CLIENT COMMUNICATION OR ATTORNEY WORK PRODUCT

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**From:** Gellert, Nicholas (Perkins Coie) <NGellert@perkinscoie.com>  
**Sent:** Friday, December 13, 2019 6:14 PM  
**To:** Busen, Jesse (CIV) <JBusen@civ.usdoj.gov>  
**Cc:** Braga, Victoria M. (CIV) <vbraga@CIV.USDOJ.GOV>; Brinkman, Andrew (CIV) <ABrinkma@civ.usdoj.gov>; Kanter, Ethan (CIV) <EKanter@CIV.USDOJ.GOV>; Kipnis, Brian (USAWAW) <BKipnis@usa.doj.gov>; Moore, Brendan T. (CIV) <bremoore@CIV.USDOJ.GOV>; Slack, Michelle R (CIV) <mislack@CIV.USDOJ.GOV>; Taranto, Leon B. (CIV) <LTaranto@civ.usdoj.gov>; Davis, Kathryn C (CIV) <kathdavi@CIV.USDOJ.GOV>; Flentje, August (CIV) <AFlentje@CIV.USDOJ.GOV>; Murphy, Lindsay M. (CIV) <limurphy@CIV.USDOJ.GOV>; Sepe, Cristina (Perkins Coie) <CSepe@perkinscoie.com>; Jennie Pasquarella <JPasquarella@aclusocal.org>; Matt Adams (matt@nwirp.org) <matt@nwirp.org>; Perez, David A. (Perkins Coie) <DPerez@perkinscoie.com>  
**Subject:** Wagafe v. Trump

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what type of application.

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Nick