

The Honorable Richard A. Jones

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

Plaintiffs,

v.

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

Defendants.

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

**DECLARATION OF LEON B.
TARANTO IN SUPPORT OF
DEFENDANTS’ REPLY TO
PLAINTIFFS’ OPPOSITION TO
DEFENDANTS’ MOTION TO
EXCLUDE TESTIMONY OF MR.
SEAN M. KRUSKOL**

I, Leon B. Taranto, do declare and say:

1. I am a duly appointed Trial Attorney for the U.S. Department of Justice, Civil Division, Torts Branch in Washington, D.C., and I am one of the attorneys assigned to represent Defendants in this action.

2. Marked as “Exhibit 1” and filed separately under seal is a true and correct copy of excerpts from the transcript of the January 10, 2020 Deposition of Mr. Daniel Renaud;

3. Attached hereto and marked as “Exhibit 2” is a true and correct copy of excerpts from the transcript of the August 31, 2020 Deposition of Mr. Kevin Shinaberry. A true and correct copy of the unredacted excerpts is marked as “Exhibit 2 – Filed Under Seal” and filed separately under seal;

1 4. Attached hereto and marked as “Exhibit 3” is a true and correct copy of excerpts from the
2 transcript of the October 20, 2020 Deposition of Mr. Sean Kruskol. A true and correct copy of the
3 unredacted excerpts is marked as “Exhibit 3 – Filed Under Seal” and filed separately under seal.

4
5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed on this 9th day of April 2021, at Washington, D.C.

7
8 /s/ Leon B. Taranto
9 LEON B. TARANTO

EXHIBIT 1
– FILED UNDER SEAL –

EXHIBIT 2
– UNREDACTED
VERSION FILED
UNDER SEAL –

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

```

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

```

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

Job No.: 623007

Pgs. 1 - 221

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

MAGNA LEGAL SERVICES
(866) 624-6221
www.MagnaLS.com

1 BY MR. AHMED:

2 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20 And my question is, Is that correct?

21 (Whereupon, the witness continues

22 to review the material provided.)

1 BY MR. AHMED:

2 Q. We can go off the record if you want
3 more time.

4 MR. TARANTO: We will stay on the
5 record. But I would object to asking
6 questions as to the particular document.
7 The guide is also beyond the -- the scope
8 of the witness' designation. So the
9 answers that the witness is giving would
10 be in his personal capacity and based on
11 his personal knowledge.

12 MR. AHMED: And just to respond to
13 that, all these questions are directly
14 relevant to Subtopic Number 8 and how he
15 defines CME in his own data dictionary
16 that he created. That is also, I
17 believe, Topic Number 9 or 10.

18 MR. TARANTO: And if you ask that
19 question, he will answer it, but this
20 goes --

21 MR. AHMED: I'm --

22 MR. TARANTO: -- beyond that.

1 MR. AHMED: -- I'm asking him

2 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT 3
– UNREDACTED
VERSION FILED
UNDER SEAL –

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

Abdiqafar Wagafe, et al.,)
on behalf of himself and)
others similarly situated,)
)
Plaintiffs,)
)
vs.) 2:17-CV-00094-RAJ
)
DONALD TRUMP, President of the)
United States, et al.,)
)
Defendants.	

The virtual videotaped deposition via Webex of SEAN KRUSKOL, called by the Defendants, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before PEGGY CURRAN, CSR, CRR, RPR, CSR License No. 084-002016, a notary public within and for the County of DuPage and State of Illinois, taken at Chicago, Illinois on Tuesday, October 20, 2020, commencing at the hour of 9:07 a.m. CT

CONFIDENTIAL DUE TO PROTECTIVE ORDER

REPORTED BY: Peggy Curran, CSR, CRR, CMR
 CSR No. 084-002016
 Magna Legal Services
 866-624-6221
 www.MagnaLS.com



1

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

█

I would
21 be able to analyze the percentages, the counts,
22 adjudication times of applications with these
23 concern types.

24 Q If you had data showing you that for the

25

1 THE WITNESS: I am not sure one way or another
2 whether or not such a data field exists. My
3 understanding of the way that the column or field
4 within the June '20 data identified cases as CARRP
5 or not were based on algorithm created for the
6 purposes of this litigation that are generally not
7 used in the normal course of business and are not
8 verified with any single data field or underlying
9 application or A-File at any point in time.

10 By Mr. Taranto:

11 [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

1

█

█

█

5

A That is correct.

6

Q Bear with me for a moment. I am just

7

skipping over a few points.

8

If we can move now to -- well, your

9

Exhibit 1 at page 9. Here I want to go to

10

paragraph 20, your point two.

11

You say there -- and the document is on

12

the screen now.

13

That USCIS's algorithm for identifying

14

applications processed under CARRP, quote, fails to

15

differentiate between applications based on

16

sub-status and concern type fields in FDNS-DS, end

17

quote.

18

Do you believe you need to know the

19

sub-status and concern type of a NS Concern case to

20

determine if it's in CARRP?

21

MR. AHMED: Objection, asked and answered.

22

Objection, compound.

23

THE WITNESS: As previously stated, I believe

24

that having the sub-status and concern type fields

25

in FDNS would allow me to perform additional data