



Plaintiffs, [REDACTED], through their undersigned counsel, on behalf of themselves and all others similarly situated, state as follows:

Introduction

1. This action is brought to compel Defendants and those acting under them to process Plaintiffs' naturalization applications, and the naturalization applications of the members of the Class defined below – a duty Defendants owe to Plaintiffs and the Class members – which have remained pending for periods of time ranging from [REDACTED] to [REDACTED] years.

2. Plaintiffs and Class members have been long-time lawful permanent residents of the United States which have each individually met the statutory requirements for citizenship over [REDACTED] years ago. In the cases of many class members, the requirements for citizenship were met even longer ago. On [REDACTED], [REDACTED], and [REDACTED], [REDACTED], having met all the statutory requirements to become citizens of the United States, Plaintiffs [REDACTED] applied for naturalization. Despite the passage of [REDACTED] days since their naturalization applications were filed, USCIS has failed to conduct an examination of Plaintiff. USCIS has likewise failed to conduct an examination of any of the class members.

3. The United States Citizenship and Immigration Services' (USCIS) failure to conduct an examination of Plaintiffs and class members is purposeful as it allows USCIS to escape the regulatory requirement that requires USCIS to

adjudicate Plaintiff's application for citizenship within 120 days of examination, pursuant to 8 C.F.R. § 335.3.

4. Upon information and belief, the naturalization applications of Plaintiffs and Class members have been delayed because of a background check known as an "FBI name check," which USCIS requires for naturalization even though it is not required by any statute or regulation.

5. As a result of Defendants' failure to conduct an examination of Plaintiffs or Class members and to adjudicate their naturalization applications, Plaintiffs and Class members have been deprived of the rights that flow from citizenship, including the ability to travel freely as U.S. citizens and to sponsor for lawful permanent residency immediate relatives living abroad.

6. This is a civil action brought pursuant to 8 U.S.C. § 1331 and 8 U.S.C. § 1361, the Mandamus Act, to redress the deprivation of rights, privileges and immunities secured to Plaintiffs and Class members. Plaintiffs' and Class members' claim to relief arises under 8 U.S.C. § 1421.

7. Defendants, in violation of the Administrative Procedure Act, 5 U.S.C. § 701, et seq., are willfully and unlawfully withholding and/or unreasonably delaying Plaintiffs' and Class members' naturalization applications and have failed to carry out the administrative functions delegated to them by law and regulation in this regard.



8. Through this action, Plaintiffs seek, for themselves and all others similarly situated, their immediate naturalization. Plaintiffs also seek, for themselves and all others similarly situated, injunctive relief from unreasonable delays by USCIS and the Federal Bureau of Investigation (FBI). The FBI has a duty to complete security checks required by USCIS for naturalization in a reasonable and timely manner. Defendants have failed in those duties.

Parties

9. Plaintiff [REDACTED] is a native citizen of [REDACTED], formerly [REDACTED]. Plaintiff is a resident of [REDACTED] County, Michigan and this district.

10. Defendant [REDACTED] is Attorney General of the United States. Defendant [REDACTED] is responsible for the FBI, a subdivision of the Department of Justice. Defendant [REDACTED] is being sued in his official capacity, only.

11. Defendant [REDACTED] is Secretary of the United States Department of Homeland Security (“DHS”). Defendant [REDACTED] is charged with enforcement of the Immigration and Nationality Act and authorized to delegate such powers and authority to subordinate employees of the DHS pursuant to 8 U.S.C. § 1103(a). Defendant [REDACTED] is ultimately responsible for the processing and adjudication of applications for naturalization. Defendant [REDACTED] is responsible for the USCIS, a subdivision of the Department of Homeland Security. Defendant [REDACTED] is being sued in his official capacity, only.



12. Defendant [REDACTED] is the Director of USCIS. Defendant [REDACTED] is responsible for the processing and adjudication of naturalization applications. Defendant [REDACTED] is being sued in his official capacity, only.

13. Defendant [REDACTED] is the District 12 Director of the USCIS. As a DHS official, Defendant [REDACTED] is charged with supervisory authority over naturalization applications submitted by residents of Michigan, including Plaintiff. Defendant [REDACTED] is being sued in his official capacity, only.

14. Defendant [REDACTED] is the Director of the FBI. Upon the request of USCIS, the FBI is responsible for performing “FBI name checks” and other background checks of all applicants for naturalization. Defendant [REDACTED] is being sued in his official capacity, only.

Jurisdiction and Venue

15. Under U.S. Const. Art. III §2, this Court has jurisdiction because the rights sought to be protected herein are secured by the United States Constitution.

16. Jurisdiction is proper pursuant to 28 U.S.C. § 1361 under which this Court has the power to compel an officer of the United States to perform his duty.

17. Jurisdiction is also proper pursuant to 5 U.S.C. § 551, et seq., 28 U.S.C. § 1331, 28 U.S.C. § 1361, 5 U.S.C. § 701, et seq., 5 U.S.C. § 706, 28 U.S.C. § 1651, the United States Constitution, and federal common law. Relief is requested pursuant to said statutes.



18. A substantial part of the unlawful acts alleged herein were committed within the jurisdiction of the United States District Court for the Western District of Michigan.

19. Venue is proper under 42 U.S.C. § 1391(e)(3) as to Defendants because Defendants are officers or employees of agencies of the United States sued in their official capacities, and because this judicial district is where Plaintiff resides and where a substantial part of the events or omissions giving rise to the claims occurred.

20. Venue is also proper under 8 U.S.C. § 1447(b) because Plaintiff reside in this district.

Standing

21. As individuals who has been “adversely affected or aggrieved by agency action,” Plaintiff has standing and is entitled to judicial review under the Administrative Procedures Act, 5 U.S.C. §§ 702, 706.

22. Plaintiff has standing under the Mandamus Act, 28 U.S.C. § 1361, because he has a clear right to the relief he is requesting.

23. Plaintiff is the representative of the class members who are entitled to class certification under Fed. R. Civ. Proc. Rule 23 because the class is numerous, there are questions of law or fact common to all class members, the claims and defenses of representative is typical of the claims and defenses of the class, and the representative will fairly and adequately protect the interests of the class. Therefore,

Plaintiff has standing to bring these claims on behalf of the class members.

Exhaustion of Administrative Remedies

24. Plaintiff is not required to exhaust any administrative remedies prior to bringing an action under 8 U.S.C. § 1447(b) or the Administrative Procedure Act.

25. Nor is Plaintiff required to exhaust any administrative remedies prior to bringing a writ of mandamus.

26. The USCIS and the FBI do not provide any administrative mechanism to address delays in naturalization.

Class Action Allegations

27. Plaintiff bring this action under Federal Rule of Civil Procedure 23(b)(3) on their own behalf and on behalf of the following Class:

All persons whose naturalization application was delayed by Defendants because of delays related to a background check known as the “FBI name check.”

28. Plaintiff does not know the exact number of Class members because such information is in the exclusive control of Defendants. As of [REDACTED], there were at least thousands of permanent residents of the United States who have met the statutory requirements to become a citizen of United States who were denied because of the “FBI name check.” Thus, the Class is so numerous that joinder of all Class members is impracticable.

29. Questions of law and fact that are common to Plaintiff and other

members of the Class predominate over questions that affect only individual members. The questions of law and fact that are common to the Class include:

- a. Whether Defendants failed to perform their administrative duties to Plaintiff and Class members in processing their application for naturalization;
- b. Whether conducting an examination of a permanent resident who has applied for naturalization is a non-discretionary duty of Defendants;
- c. Whether Defendants by willfully and unlawfully delaying the Plaintiff's and Class Members' interview appointments and the processing of their naturalization applications, failed to perform the administrative functions delegated to them by law;
- d. Whether the acts of Defendants are arbitrary, capricious and an abuse of discretion;
- e. Whether the acts of Defendants in unreasonably delaying the interview appointment and processing of the application result in a constructive denial of the naturalization application.

30. Plaintiff's claims are typical of the claims of the members of the Class because Plaintiff, like all Class members, are permanent residents of the United States meeting the statutory requirements to become citizens of the United States and whose naturalization application was delayed by Defendants during the Class period, who have been damaged by the unlawful conduct alleged herein. Plaintiffs,

by advancing their own claims, will also advance the claims of all members in the Class.

31. Plaintiff, including the class members (“Plaintiffs”), and their counsel will fairly and adequately protect the interests of all Class members. There are no material conflicts between Plaintiffs’ interests in this litigation and those of Class members that would make class certification inappropriate. Counsel for Plaintiffs is experienced in naturalization application class actions, and will vigorously assert Plaintiffs’ claims and those of the other Class members.

32. Class action treatment is the superior method for the fair and efficient adjudication of the causes of action alleged herein. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would entail. No difficulties are likely to be encountered in the management of this case that would preclude its maintenance as a class action.

Factual Background

33. Plaintiff was born on [REDACTED] in [REDACTED], formerly [REDACTED].

34. Plaintiff immigrated to the United States in 2000, and became a lawful permanent resident on [REDACTED].

35. On [REDACTED], having met all statutory requirements to become a citizen of the United States, [REDACTED] applied for naturalization.



36. Plaintiff contacted DHS on numerous occasions to inquire regarding the status of his naturalization application and the scheduling of an interview appointment, most recently on [REDACTED].

37. Each time Plaintiff contacted USCIS, he was informed that his naturalization application was still in process.

38. As of this date, USCIS has failed to conduct an examination of Plaintiff.

39. Plaintiff has yet to receive any substantial information from Defendants regarding the reasons for why his naturalization application is still pending.

40. On [REDACTED], Plaintiff received a Notice of Action from USCIS informing him that his interview appointment was scheduled to take place on [REDACTED]. (**Exhibit A – Interview Notice**).

41. However, [REDACTED], Plaintiff received a letter from USCIS District Director, at that time [REDACTED], informing Plaintiff that his interview appointment scheduled to take place on [REDACTED] was cancelled. (**Exhibit B – Notice of Cancellation of Interview**).

42. On [REDACTED], still having not received a date for an interview appointment, Plaintiff emailed a USCIS official.

43. The USCIS official responded that “[f]or various reasons, some applications require extensive review of the Contents [sic] of their N-400 packet.

Your application [] [was] among these cases.” (**Exhibit C – Email exchange with USCIS official**).

44. Still not having received a date for an interview appointment, [REDACTED], Plaintiff contacted DHS to inquire regarding the status of his naturalization application.

45. At that time, Plaintiff was told that his case was administratively closed and that he needed to file a request to reopen his case.

46. Plaintiff immediately filed a request to reopen his case. (**Exhibit D – Request to Reopen Naturalization Application**).

47. Despite having been informed that his case was administratively closed, Plaintiff continued to receive status updates from DHS each time he (and on one occasion U.S. Congressman Ehlers) contacted DHS to inquire regarding his status – each status update stating that his case was “Outside Normal Processing Times” or that background and security checks needed to be completed. (**Exhibit E – USCIS status updates**).

48. On [REDACTED], Plaintiff received a notice of a motion filed by USCIS to reopen “the district director’s decision to administratively close your Form N-400, Application for Naturalization. The Agency closed your application in error. Processing is being restarted on your application forthwith. Please appear for any scheduled interview or fingerprint appointment from this point forward.” (**Exhibit F – Motion to Reopen and Notice of Reopening of Decision**).



49. However, despite the passage of 3,603 days since his naturalization application was first filed, USCIS has still failed to conduct an examination of Plaintiff or adjudicate his application.

50. Plaintiff is of good moral character and meets all requirements for naturalization. He meets the requirements for length of lawful permanent residency and continuous physical presence, and he has passed the English language and U.S. civics examination.

COUNT I
WRIT OF MANDAMUS

51. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

52. Defendants have a clear ministerial duty to Plaintiffs and Class members to timely conduct an examination of Plaintiffs and Class members and to process and adjudicate their naturalization applications.

53. Moreover, Defendants have a clear ministerial duty to Plaintiffs and Class members to complete the FBI name check and any other investigation required by USCIS for their naturalization.

54. Conducting an examination of Plaintiffs and an FBI name check in addition to the processing and adjudication of Plaintiffs' and Class members' naturalization applications are ministerial and non-discretionary.

55. Defendants have failed in their duties to Plaintiff.



56. Defendants, in violation of the Administrative Procedure Act, 5 U.S.C. § 701, et seq., are willfully, unlawfully, and unreasonably delaying Plaintiffs' interview appointments and adjudication of their and the Class members' naturalization application and have failed to carry out the administrative functions delegated to them by law and regulation in regard to Plaintiffs' and Class members' case.

57. Defendants' actions described above were and are willful, arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law and should be declared unlawful pursuant to 5 U.S.C. § 706.

58. Defendants' conduct amounts to a constructive denial of Plaintiffs' and Class members' United States naturalization application.

59. Plaintiffs and Class members have a clear right to the relief sought.

60. Plaintiffs and Class members are not required to exhaust any administrative remedies as none exist for naturalization applications, and no other adequate remedy is available to him.

61. Plaintiffs and Class members are entitled to mandamus relief compelling Defendant to process his renewal application for a United States passport.

WHEREFORE, Plaintiff requests this Honorable Court issue a writ of mandamus ordering the Defendants to have their agents conduct an examination of Plaintiff in connection with his naturalization application within 30 days, and to

process and adjudicate Plaintiff's naturalization application within 90 days, plus grant all such other relief this Court deems just and proper including damages, costs and attorney's fees incurred in this action.

COUNT II
UNLAWFUL AGENCY ACTION IN VIOLATION OF
THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. §§ 702, 706

62. Plaintiffs hereby reallege and incorporates by reference the foregoing paragraphs of this Complaint as if fully set forth herein.

63. Defendants have a clear duty to Plaintiffs and Class members to timely conduct an examination of Plaintiffs and Class members to process and adjudicate their naturalization applications.

64. Moreover, Defendants have a clear duty to Plaintiffs and Class members to complete the FBI name check and any other investigation required by USCIS for naturalization.

65. Conducting an examination of Plaintiffs and Class members and an FBI name check in addition to the processing and adjudication of Plaintiffs' and Class members' naturalization applications are ministerial and non-discretionary.

66. Defendants have failed in their duties to Plaintiffs and Class members.

67. Defendants, in violation of the Administrative Procedure Act, 5 U.S.C. § 701, et seq., are willfully, unlawfully, and unreasonably delaying Plaintiffs' interview appointments and the processing and adjudication of Plaintiffs' and Class members' naturalization applications on the basis of FBI name checks and has

failed to carry out the administrative functions delegated to them by law and regulation in regard to Plaintiffs' and Class members' cases.

68. The failure of Defendants [REDACTED], [REDACTED], and [REDACTED] to conduct an examination of Plaintiffs and to process and adjudicate Plaintiffs' naturalization application within a reasonable time on the basis of delays in the processing of FBI name checks, is a violation of 8 U.S.C. § 1446(d) and 8 C.F.R. § 335.3, and the Administrative Procedures Act, 5 U.S.C. § 555(b); 5 U.S.C. §§ 706(1), 706(2)(A), 706(2)(C), 706(2)(D).

69. The failure of Defendants [REDACTED] and [REDACTED] to complete Plaintiffs' FBI name checks within a reasonable time period, with the full knowledge that USCIS requires the completion of such FBI name checks for adjudication of applications for naturalization, violates the Administrative Procedures Act, 5 U.S.C. § 555(b); 5 U.S.C. §§ 706(1), 706(2)(A), 706(2)(C), 706(2)(D).

70. Defendants' actions described above were and are willful, arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law and, thus, should be declared unlawful pursuant to 5 U.S.C. § 706.

71. Defendants' conduct amounts to a constructive denial of Plaintiffs' and Class members' naturalization applications.

72. As a result of Defendants' actions, Plaintiffs and Class members have suffered and continue to suffer injury.



73. Plaintiffs and Class members have a clear right to the relief sought.

74. Plaintiffs and Class members are not required to exhaust any administrative remedies as none exist for naturalization applications, and no other adequate remedy is available to him.

WHEREFORE, Plaintiffs request this Honorable Court issue a writ of mandamus ordering the Defendants to have their agents conduct an examination of Plaintiffs and Class members in connection with their naturalization applications within 30 days, and to process and adjudicate Plaintiffs' and Class members' naturalization application within 90 days, plus grant all such other relief this Court deems just and proper including damages, costs and attorney's fees incurred in this action.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests this Honorable Court:

1. Accept jurisdiction over this action;
2. The Court declare, adjudge, and decree this action to be a proper class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the Class defined herein;
3. Issue a writ of mandamus compelling Defendants to conduct an examination of Plaintiffs and Class members in connection with their naturalization applications within 30 days;



4. Retain court supervision of Plaintiffs' and Class members' naturalization applications and issue a writ of mandamus compelling Defendants to process and adjudicate Plaintiffs' and Class members' naturalization application within 90 days;
5. Award damages, attorney's fees, costs, and expenses of all litigation, pursuant to 5 U.S.C. § 504, 28 U.S.C. § 2412 and 28 U.S.C. § 1343(a); and, Grant all such other and further relief as the Court may deem just and proper.

Respectfully submitted,

[Redacted]
/s/ [Redacted]

[Redacted] ([Redacted])

Attorney for Plaintiff

[Redacted],
[Redacted], MI [Redacted]

Phone: [Redacted]

Dated: [Redacted]