

EXHIBIT D

~~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
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1 from 2008, as well as reading and reviewing
2 information available on the USCIS website.

3 By Mr. Taranto:

4 Q What's your understanding of the
5 difference between processing an application in
6 CARRP and processing an application outside of
7 CARRP?

8 MR. AHMED: Objection, lacks foundation.
9 Objection, compound. Objection, vague.

10 THE WITNESS: As I previously stated, I
11 believe the difference is additional, quote,
12 vetting procedures that may be prepared or
13 performed by USCIS or FDNS.

14 By Mr. Taranto:

15 Q How does your understanding of CARRP
16 affect your analysis of the data?

17 MR. AHMED: Objection, vague.

18 THE WITNESS: So to understand the data that I
19 was asked to analyze, I needed to understand how an
20 application moved through the adjudication process
21 from receipt to potential additional vetting
22 procedures, all the way through adjudication.

23 By Mr. Taranto:

24 Q Was it important for you to have a
25 strong understanding of the CARRP policy and how it

1 operates in order to conduct your analysis of the
2 data?

3 MR. AHMED: Objection, vague.

4 THE WITNESS: I apologize, counsel, it went
5 out at the beginning and I did not hear it. May
6 you repeat your question?

7 By Mr. Taranto:

8 Q Certainly. Thank you.

9 Was it important for you to have a
10 strong understanding or a firm understanding of the
11 USCIS CARRP policy and how it operates in order for
12 you to conduct your analysis of the data?

13 MR. AHMED: Objection, vague. Objection,
14 compound. Objection, asked and answered.

15 THE WITNESS: Yes, it was important to me to
16 have an understanding of the adjudication process
17 for forms I-485 and N-400 to analyze USCIS data as
18 I did in my reports.

19 By Mr. Taranto:

20 Q What did you do before preparing your
21 first report to understand what USCIS -- to
22 understand what CARRP is and how it operates, aside
23 from reviewing the documents that you cited in your
24 report, anything else?

25 MR. AHMED: Objection, vague. Objection,

1 compound.

2 THE WITNESS: I do not recall reviewing any
3 other documents besides the policy manuals,
4 depositions and data that I discussed in my initial
5 report.

6 By Mr. Taranto:

7 Q As you were embarking on your assignment
8 or in the process of preparing your first report in
9 this case, were there questions that you had that
10 you needed to have heard about CARRP?

11 MR. AHMED: Objection, compound. Objection,
12 vague.

13 THE WITNESS: I do not recall sitting here
14 today.

15 By Mr. Taranto:

16 Q To prepare your reports in this case, is
17 there anything that you needed to know about
18 immigration benefit application?

19 A Yes.

20 Q And what did you need to know about
21 that?

22 A I needed to know the information that
23 was listed on a blank form, the information that
24 was processed through various databases within
25 USCIS and FDNS, and how an application would move

1 through the various processes to final
2 adjudication.

3 Q Were all of your questions about USCIS'
4 processing of immigration benefit applications
5 satisfactorily addressed through the documents you
6 reviewed or conversations you had?

7 MR. AHMED: Objection, compound. Objection,
8 vague.

9 THE WITNESS: No.

10 By Mr. Taranto:

11 Q Which questions remained or were not
12 satisfactorily addressed?

13 MR. AHMED: Objection, compound.

14 THE WITNESS: Again, I do not have my report
15 in front of me. So based on my recollection, I
16 have certain questions regarding how an application
17 is identified as CARRP in the USCIS database and
18 data set that I was provided, knowing that it moves
19 through multiple processes, and can be identified
20 as a national securities concern or not.

21 I had various questions regarding the
22 amount of potential duplicates that I found in the
23 data set. I don't understand based on the CARRP
24 policy and the USCIS adjudication of forms I-485
25 and N-400 how potential duplicates may exist.

1 I also do not understand some of the
2 adjudication times of forms I-485 and N-400, based
3 on my understanding of the adjudication process.

4 In addition, I observed in the data
5 certain anomalies whereby the receipt date of an
6 application was after the last status date or
7 potentially adjudication date.

8 And based on my understanding of the
9 adjudication process, I do not understand how these
10 data anomalies exist.

11 By Mr. Taranto:

12 Q Were all your questions about CARRP
13 policy satisfactorily addressed through the
14 documents you reviewed or conversations you had?

15 MR. AHMED: Objection, vague. Objection
16 compound.

17 THE WITNESS: No.

18 By Mr. Taranto:

19 Q Which questions were not satisfactorily
20 addressed?

21 A Based on my recollection of my reports,
22 I identified instances where I'm unable to explain
23 why, one, CARRP application -- or applications were
24 identified as CARRP based on the opening and
25 potential closing of what the FDNS calls CME or

1 case management entity dates.

2 And two, it is unclear from the data
3 I've received to date, whether or not certain
4 applications were identified as NS Concerns,
5 non-known terrorists or known terrorist
6 applications.

7 And three, it is unclear to me, why I
8 have two data sets, both purported to be from the
9 USCIS's various systems whereby I have an updated
10 data set that there is a discrepancy in
11 applications that were once identified as CARRP and
12 are now identified as not CARRP.

13 Q Who do you think is best positioned to
14 determine what a CARRP application is or whether an
15 application is in CARRP, you or the agency,
16 USCIS?

17 MR. AHMED: Objection, compound. Objection,
18 vague. Objection, calls for speculation.

19 THE WITNESS: I do not know who is best to
20 make that determination.

21 By Mr. Taranto:

22 Q And in your June 17th report and in your
23 September 21st report, you make observations or
24 comparisons to the June 2020 data to the previously
25 provided data.

1 Aside from the observations and findings
2 and conclusions you state in your reports, are
3 there any other observations you have
4 distinguishing the two sets of data or in comparing
5 the two sets of data?

6 MR. AHMED: Objection, compound. Objection,
7 vague. Objection, misstates his expert report.

8 THE WITNESS: I do not.

9 By Mr. Taranto:

10 Q Do you hold yourself out as an expert in
11 USCIS' processing of immigration benefit
12 applications?

13 MR. AHMED: Objection, argumentative.
14 Objection, vague.

15 THE WITNESS: I do not.

16 By Mr. Taranto:

17 Q Do you consider yourself an expert in
18 USCIS' processing of immigration benefit
19 applications under CARRP?

20 MR. AHMED: Objection, argumentative.
21 Objection, vague.

22 THE WITNESS: I do not.

23 By Mr. Taranto:

24 Q Mr. Kruskol, do you hold yourself out as
25 an expert in statistical analysis?

1 compare two subsets of data against each other.

2 Infer --

3 Q Are you -- go ahead. I didn't mean to
4 interrupt.

5 A My understanding is that inferential
6 statistics are statistics that take a sample
7 population, a sample of a population, and draw
8 a broader conclusion about the entire population.

9 Q Are there aspects of statistical
10 analysis that are beyond your expertise?

11 MR. AHMED: Objection, vague.

12 THE WITNESS: Yes.

13 By Mr. Taranto:

14 Q Can you give us a general summary or
15 some examples?

16 MR. AHMED: Objection, compound. Objection,
17 vague.

18 THE WITNESS: Yes. For example, I do not do
19 probability or choice models (mic lag). I do not
20 perform econometric analyses. I do not perform
21 regressions.

22 By Mr. Taranto:

23 Q Do you do tests for p-values?

24 MR. AHMED: Objection, vague.

25 By Mr. Taranto:

1 Q Significance.

2 MR. AHMED: Objection, vague.

3 THE WITNESS: I do not.

4 By Mr. Taranto:

5 Q Do you do tests to determine statistical
6 significance of trend analyses?

7 MR. AHMED: Objection, vague.

8 THE WITNESS: I do not.

9 By Mr. Taranto:

10 Q Have you ever had any publications
11 concerning statistical analyses?

12 A I have not.

13 Q Do you think a statistician needs to be
14 an expert in the underlying substantive issues
15 concerning a matter in order to analyze the data?

16 MR. AHMED: Objection, calls for speculation.
17 Objection, vague.

18 THE WITNESS: I believe that anyone analyzing
19 data should have an understanding of how that data
20 was created.

21 By Mr. Taranto:

22 Q Prior to this case, did you have any
23 experience in conducting statistical analyses
24 relating to applications for immigration
25 benefits?

1 A I did not.

2 Q Prior to this case, did you have any
3 experience conducting statistical analyses
4 concerning programs involving vetting or reviews
5 of -- relating to national security concerns?

6 MR. AHMED: Objection, compound. Objection,
7 vague.

8 THE WITNESS: I did not.

9 By Mr. Taranto:

10 Q Before this litigation, did you have any
11 experience conducting statistical analyses
12 concerning claims of bias or discrimination?

13 MR. AHMED: Objection, compound. Objection,
14 vague.

15 THE WITNESS: I did not.

16 By Mr. Taranto:

17 Q Have you ever presented testimony as an
18 expert in statistical analyses?

19 MR. AHMED: Objection, vague.

20 THE WITNESS: I have not before.

21 By Mr. Taranto:

22 Q Have you ever testified as an expert
23 before?

24 MR. AHMED: Objection, vague.

25 THE WITNESS: I have not.

1

2 By Mr. Taranto:

3 Q Has any court ever excluded your opinion
4 testimony on any basis?

5 MR. AHMED: Objection, vague.

6 THE WITNESS: No.

7 By Mr. Taranto:

8 Q In your July 17 report, and also in your
9 September 21 report, you discuss the data for this
10 in June 2020, tabular data summaries and detail
11 data.

12 From your review of the data, how common
13 is it for an application for immigration benefits
14 in I-485 or N-400 to be referred to CARRP?

15 MR. AHMED: Objection, compound. Objection,
16 vague. Objection, misstates his expert report.

17 THE WITNESS: Can you clarify what you mean by
18 "how common"?

19 By Mr. Taranto:

20 Q All right. Well, specifically did you
21 see in the data that about 99.73 percent of
22 10.6 million applications never went into CARRP?

23 MR. AHMED: Objection, vague.

24 THE WITNESS: Again, I do not have my report
25 in front of me, but I do believe that 99.7 percent

1 is consistent with the number of applications that
2 the USCIS data shows were not subject to CARRP
3 processing.

4 By Mr. Taranto:

5 Q And the data from USCIS for June 2020
6 shows about 28,000 applications, for about one of
7 every 375 went into CARRP; is that correct?

8 MR. AHMED: Objection, compound. Objection,
9 vague.

10 THE WITNESS: Can you repeat the question,
11 please?

12 By Mr. Taranto:

13 Q Yes. The USCIS data produced in June of
14 2020 shows that about 28,000 of 10.6 million
15 applications, about one in every 375, went into
16 CARRP, correct?

17 MR. AHMED: Objection, compound. Objection,
18 vague. Objection, the data speaks for itself.

19 THE WITNESS: I have not done the exact math
20 to confirm that about one in every 300 or so, I
21 think you said, 300,000, forgive me if I misheard,
22 applications were referred to CARRP.

23 But as laid out in my June '20 expert
24 report, I was able to conclude that approximately
25 28,240 or so applications were subject to

1 additional review through CARRP procedures.

2 I believe this amount was approximately
3 .3 percent of total applications received from
4 fiscal year 2013 through fiscal year 2019.

5 By Mr. Taranto:

6 Q Do you know what an EO country is?

7 MR. AHMED: Objection, vague.

8 THE WITNESS: I do not know. I think I have
9 seen EO referenced in Mr. Siskin, or Dr. Siskin,
10 excuse me, Dr. Siskin's report.

11 By Mr. Taranto:

12 Q When you looked at the June 2020 data
13 and the tabular data, did you spend any time
14 looking at the tab concerning EO or EO countries?

15 MR. AHMED: Objection, compound. Objection,
16 vague.

17 THE WITNESS: Yes.

18 By Mr. Taranto:

19 Q Now that you recall looking at those
20 tabs, do you know what an EO country is?

21 A My understanding is that an EO country
22 is -- I believe EO stands for executive order. And
23 an EO country was one of seven countries that were,
24 I believe, mentioned as executive order countries.
25 But other than that, I do not recall spending much

1

2 By Mr. Taranto:

3 All right. Well, yes. Dr. Siskin says in his
4 July 17 amended report that only a small percentage
5 of applicants from Muslim -- majority Muslim
6 countries had applications processed under CARRP,
7 1.27 percent, for only 18,403 of 1,444,306
8 applications.

9 Do you disagree or agree with his
10 findings?

11 MR. AHMED: Objection, compound. Objection,
12 vague.

13 THE WITNESS: I disagree.

14 By Mr. Taranto:

15 Q All right. Why do you disagree?

16 A I believe Dr. Siskin has determined what
17 the word small means. And I did not use that word
18 in my report. But I do agree that the math is the
19 same.

20 Q All right. So you would not disagree
21 that about 1.27 percent of the applications from
22 applicants from majority Muslim countries were
23 processed under CARRP, and about, therefore about
24 98.73 percent never went into CARRP?

25 MR. AHMED: Objection, compound. Objection,

1 vague.

2 THE WITNESS: Sitting here today, I do not
3 recall the exact numbers as outlined in my June
4 report.

5 So without my June report in front of
6 me, I can't confirm your statement.

7 By Mr. Taranto:

8 Q And in your June and also September
9 reports, you do not make any statements on the
10 percentage of applications from applicants from
11 majority Muslim countries that went into CARRP, did
12 you?

13 MR. AHMED: Objection --

14 By Mr. Taranto:

15 Q Did you?

16 MR. AHMED: Objection, compound. Objection,
17 misstates his expert report. Objection, vague.

18 THE WITNESS: Can you repeat the question,
19 counselor?

20 By Mr. Taranto:

21 Q Your expert reports do not state the
22 percentage of applications from applicants from
23 Muslim majority countries that were processed under
24 CARRP?

25 MR. AHMED: Objection.

1 THE WITNESS: I did not perform such analysis
2 and do not know one way or another.

3 By Mr. Taranto:

4 Q [REDACTED]

■ [REDACTED]

■ [REDACTED]

7 MR. AHMED: Objection, vague.

8 THE WITNESS: I did not perform such analysis
9 and do not know one way or another.

10 By Mr. Taranto:

11 Q And looking at the June 2020 data, how
12 common was it for adjudicated applications referred
13 to CARRP to be approved?

14 MR. AHMED: Objection, vague.

15 THE WITNESS: Can you define what you mean by
16 "common"?

17 By Mr. Taranto:

18 Q Well, looking at the updated data from
19 June 2020, did you see that 81.1 percent of
20 applications adjudicated under CARRP were approved,
21 and 18.1 percent were disapproved?

22 MR. AHMED: Objection, vague. Objection, the
23 data speaks for itself. Objection, to the
24 actual -- that the data is even correct.

25 THE WITNESS: Without my report in front of me

1 and exhibits, I'm unable to exactly confirm the
2 figures that you have mentioned.

3 However, they are generally consistent
4 with my analysis of the data, and sub-setting that
5 data based on CARRP and not CARRP applications, and
6 looking for adjudication decisions by USCIS.

7 By Mr. Taranto:

8 Q Why didn't you include in your report
9 any statement that the -- that over 80 percent of
10 the applications adjudicated under CARRP were
11 approved?

12 MR. AHMED: Objection, argumentative.
13 Objection, vague. Objection, the data speaks for
14 itself.

15 THE WITNESS: Those figures are from my
16 exhibits and they are part of my much larger
17 analysis of applications contained within the June
18 2020 data set.

19 By Mr. Taranto:

20 Q So you are saying such information that
21 over 80 percent of applications adjudicated under
22 CARRP were approved is in, what, attachments to
23 your report, but not necessarily in the reports
24 themselves, the text?

25 MR. AHMED: Objection, misstates his

1 testimony. Objection, compound. Objection, vague.
2 Objection, the data speaks for itself.

3 THE WITNESS: In the text of my report there
4 are a series of references to multiple exhibits.
5 And I did not put every analysis, every line item,
6 every figure, every calculation from my exhibits
7 into the text of my report.

8 By Mr. Taranto:

9 Q In the June 2020 data, did you notice
10 that the approval rates for applicants from Muslim
11 majority countries that were referred to CARRP were
12 a bit higher than for applicants from -- born in
13 other countries?

14 MR. AHMED: Objection, vague. Objection, the
15 data speaks for itself.

16 MS. REPORTER: Can I get the end of the
17 question: a bit higher than for applicants from
18 other countries?

19 MR. TARANTO: Born in other countries.

20 MS. REPORTER: Born. Thank you.

21 By Mr. Taranto:

22 Q Could I have the answer again? Was the
23 answer no or was there an answer?

24 A I have not answered yet.

25 Q Oh, I'm sorry.

1 A Can you clarify what you mean by "a
2 bit"?

3 Q Certainly. Were the --

4 I will withdraw the question. It wasn't
5 a very good one.

6 Did you see that the approval rates for
7 applicants from -- who were born in Muslim majority
8 countries in the June 2020 data were higher than
9 they were for applicants born in other countries,
10 non-Muslin majority countries?

11 MR. AHMED: Objection, vague. Objection, the
12 data speaks for itself.

13 THE WITNESS: Without my report in front of
14 me, I do not think I can confirm your statement one
15 way or another.

16 By Mr. Taranto:

17 Q All right. You don't -- so you don't
18 recall that being untrue, but you can't confirm it
19 either, correct?

20 MR. AHMED: Objection, asked and answered.
21 Objection, compound. Objection, vague.

22 THE WITNESS: I don't recall one way or
23 another based on the way the question was
24 phrased.

25 By Mr. Taranto:

1 Q Dr. Siskin's June 17th amended report at
2 page 3 says, quote, once an application is referred
3 to CARRP, there is no relationship between being
4 from a Muslim -- from a majority Muslim country and
5 how long it will take to process the individual's
6 application or whether he will be approved or
7 denied.

8 Do you have any disagreement with that
9 conclusion?

10 MR. AHMED: Objection to the extent that you
11 are reading from Dr. Siskin's report without
12 showing the witness the accuracy of that statement.
13 Objection, vague.

14 THE WITNESS: I neither disagree nor agree
15 with that statement without performing analysis or
16 seeing the report of Dr. Siskin.

17 By Mr. Taranto:

18 Q Your report did not include a similar
19 finding or statement comparing the processing times
20 within CARRP for persons from majority Muslim
21 countries as compared to persons from other
22 countries. Why not?

23 MR. AHMED: Objection, compound. Objection,
24 vague. Objection, argumentative.

25 THE WITNESS: That was not part of my

1 assignment to calculate the mean and median
2 processing times at the level that you mention in
3 your question. However, I did calculate mean and
4 median processing times for applicants that were
5 subject to additional Carrp processing procedures
6 and those that were not.

7 By Mr. Taranto:

8 Q And for applicants that were referred to
9 CARRP and had their applications then be
10 adjudicated, you didn't do any comparison of the
11 adjudication outcomes for applicants from majority
12 Muslim countries and applicants from non-Muslin
13 countries for outcome of their adjudications after
14 CARRP referral, did you?

15 MR. AHMED: Objection, vague. Objection,
16 compound. Objection, argumentative.

17 THE WITNESS: Without my report in front of
18 me, I do not recall exactly. However, I believe
19 that is consistent with the analyses or lack of
20 analyses that I took.

21 By Mr. Taranto:

22 Q How did you distinguish between a case
23 processed pursuant to CARRP and one that is not
24 processed pursuant to CARRP in terms of the
25 processing that the case undergoes?

1 THE WITNESS: Based on the documents and data
2 I received to date, I cannot confirm nor deny
3 that.

4 MR. TARANTO: At this point we have been on
5 for a bit over an hour and a half. I can keep on
6 going, but I wanted to offer the opportunity for a
7 break if anybody wanted one at this point.

8 MR. AHMED: Yes. If we could take a short
9 break, I'm fine. Would ten minutes work.

10 MR. TARANTO: Okay. Let's go ahead off the
11 record and we can -- yes, decide when to resume I
12 guess.

13 THE VIDEOGRAPHER: We are going off the
14 record. The time is 10:44 a.m.

15 (A recess was had.)

16 THE VIDEOGRAPHER: We are back on the record.
17 The time is 10:57 a.m.

18 By Mr. Taranto:

19 Q Mr. Kruskol, are you an expert in CARRP
20 policy?

21 MR. AHMED: Objection, vague.

22 THE WITNESS: I am not.

23 By Mr. Taranto:

24 Q Who do you think is best positioned to
25 interpret CARRP policy?

1 MR. AHMED: Objection, vague.

2 MS. REPORTER: I lost the question, sir. I
3 didn't hear the question.

4 By Mr. Taranto:

5 Q Who do you think is best positioned to
6 interpret CARRP policy?

7 MR. AHMED: Objection, vague.

8 THE WITNESS: I do not know a specific person
9 that would be in the best position to interpret
10 CARRP policy.

11 By Mr. Taranto:

12 Q And you are not an expert in CARRP
13 terminology, are you?

14 MR. AHMED: Objection, vague. Objection,
15 argumentative.

16 THE WITNESS: I am not.

17 By Mr. Taranto:

18 Q And are you an expert in determining
19 whether USCIS has correctly referred a case to
20 CARRP?

21 MR. AHMED: Objection, vague.

22 THE WITNESS: I am not.

23 By Mr. Taranto:

24 Q Are you an expert in determining if
25 USCIS has referred a case to CARRP?

1 THE WITNESS: Consistent with my prior answer,
2 I have been able to analyze the data produced by
3 USCIS. That data has an indicator whether or not a
4 flag -- sorry -- whether or not an application was
5 processed via CARRP or not. And I have raised
6 certain questions about the accuracy that CARRP
7 case flag.

8 By Mr. Taranto:

9 Q I understand that you made that point
10 twice, but do you claim that you have greater
11 expertise than USCIS in determining whether USCIS
12 has referred a case to CARRP?

13 MR. AHMED: Objection, asked and answered.
14 Objection, vague. Objection, calls for
15 speculation. Objection, argumentative.

16 THE WITNESS: Can you clarify whether or not
17 you mean that whether or not an application was
18 identified as CARRP in the USCIS data set that I
19 relied on for my June -- my July report of the June
20 data?

21 By Mr. Taranto:

22 Q Specifically, can you for any particular
23 application in the data set, do you claim that you
24 have greater expertise than USCIS in determining
25 whether that application has been referred to

1 CARRP?

2 MR. AHMED: Objection, asked and answered.

3 Objection, vague. Objection, lacks foundation.

4 Objection, argumentative.

5 THE WITNESS: As outlined in my report, I was
6 not provided access to any of the underlying data
7 or A-files that purportedly are analyzed to create
8 the USCIS data set from June 2020, and therefore, I
9 have no basis one way or another to answer your
10 question.

11 By Mr. Taranto:

12 Q Do you think, though, lacking access to
13 the applications diminishes your ability to
14 determine which applications were referred to or
15 processed in CARRP?

16 MR. AHMED: Objection, compound. Objection,
17 vague, objection, argumentative.

18 THE WITNESS: I do.

19 By Mr. Taranto:

20 Q And why do you say that?

21 A Without reviewing the underlying A-files
22 or documents, I'm simply relying on a data output,
23 I'm unable to confirm the inputs into the system,
24 and relying on various queries of various USCIS and
25 FDNS databases of which I have not been able to

1 review any of the supporting documentation.

2 Q Do you know how USCIS would vet
3 immigration benefit applications or processing --

4 A I apologize, counsel, I didn't catch the
5 question.

6 Q Do you know, Mr. Kruskol, how USCIS
7 records which immigrant -- immigration benefit
8 applications are processed in CARRP?

9 MR. AHMED: Objection, vague.

10 THE WITNESS: I have an understanding based on
11 my recollection of the testimony of Mr. Shinaberry,
12 on how his data identifies applications that were
13 processed under CARRP.

14 By Mr. Taranto:

15 Q Do you know the name of the database
16 where information is kept on which immigrant --
17 immigration benefit applications are processed in
18 CARRP?

19 MR. AHMED: Objection, vague.

20 THE WITNESS: I believe there are multiple
21 databases that keep attributes and information on
22 forms I-485 and N-400.

23 By Mr. Taranto:

24 Q Which databases, if any, would help you
25 to determine whether an application is processed in

1 CARRP?

2 MR. AHMED: Objection, vague.

3 THE WITNESS: My understanding based on the
4 testimony of Mr. Shinaberry, you needed to rely on
5 FDNS-DS databases for a column or field called CME
6 date to determine which applications in the USCIS
7 database were processed under CARRP.

8 By Mr. Taranto:

9 Q What is the FDNS-DS database, your
10 understanding of it?

11 A So without my report in front of me, my
12 recollection is that FDNS stands for the fraud
13 database -- fraud protection, excuse me, national
14 security database. And in there or as part of that
15 data system, there is information on applicants
16 seeking immigration benefits and whether or not
17 their applications were subject to additional
18 either scrutiny or vetting by the FDNS
19 department.

20 Q What is your understanding of the
21 purpose of the FDNS-DS database?

22 MR. AHMED: Objection, vague.

23 THE WITNESS: My recollection as I sit here
24 today is that the purpose of the FDNS database is
25 to track characteristics or attributes of certain

1 individuals that apply for immigration benefits.

2 There may be other uses, purposes, and
3 data stored in this database, but I do not recall
4 as I sit here today.

5 By Mr. Taranto:

6 Q Do you regard yourself as an expert in
7 the FDNS-DS database?

8 MR. AHMED: Objection, argumentative.

9 THE WITNESS: I do not.

10 By Mr. Taranto:

11 Q You've mentioned CME case management
12 entries. You understand that referring to an
13 identifier in FDNS-DS that refers to a NS Concern,
14 a national security concern?

15 MR. AHMED: Objection, compound. Objection,
16 vague. Objection, I believe you have misstated
17 what CME stands for.

18 THE WITNESS: To the extent that I said that
19 CME stands for case management entry, I misspoke.

20 I believe that CME stands for case
21 management entity. And it is my understanding that
22 a CME may be opened for a given individual's
23 application when it is necessary to perform further
24 review on that application.

25 I do not recall without looking at my

1 report and seeing it today all of the reasons why a
2 CME may be opened.

3 By Mr. Taranto:

4 Q Do you understand that where a national
5 security concern, CME is opened concerning a person
6 who has a pending I-485 or N-400 application, that
7 the application is processed pursuant to the CARRP
8 policy?

9 MR. AHMED: Objection, compound. Objection
10 vague.

11 THE WITNESS: My recollection without having
12 my report in front of me, is that if a CME is open,
13 the FDNS User Guide says that an application could
14 be subject to additional vetting under CARRP.

15 I do not recall that the FDNS User
16 Guides -- guide says that an application is or must
17 be subject to CARRP if a CME is opened.

18 By Mr. Taranto:

19 Q Do you believe that you have sufficient
20 competency and understanding and expertise in the
21 FDNS-DS database to interpret the terminology in
22 the database?

23 MR. AHMED: Objection, vague. Objection,
24 compound. Objection, lacks foundation. Objection,
25 calls for speculation. Objection, argumentative.

1 THE WITNESS: My review of the FDNS User
2 Guide, coupled with the deposition testimony of
3 Mr. Kevin M. Shinaberry, in addition to my review
4 of the data that was produced in this case, I
5 believe would give me sufficient basis in order to
6 reach the conclusions I did based on my analysis.

7 By Mr. Taranto:

8 Q What is the role of FDNS-DS in recording
9 applications referred to CARRP?

10 MR. AHMED: Objection, asked and answered.
11 Objection, vague.

12 THE WITNESS: Sitting here today, I do not
13 recall the role, FDNS' role one way or another.

14 By Mr. Taranto:

15 Q How are CARRP cases initially entered
16 into FDNS-DS?

17 MR. AHMED: Objection, vague. Objection,
18 lacks foundation.

19 THE WITNESS: So sitting here today, my
20 recollection is that an application does not start
21 out as a CARRP application. So an application
22 could not be entered into FDNS as a CARRP
23 application.

24 By Mr. Taranto:

25 Q I'd like to have put back on the screen

1 Exhibit 1, which was item A, which is your
2 September 21st report, the last of your reports.

3 And let's go to page 3 of the report, at
4 paragraph 6. If we could zoom in on that.

5 You say that the updated USCIS detailed
6 data appears to overstate the number of
7 applications subject to CARRP.

8 Why do you say it appears to overstate
9 the number rather than that it does overstate the
10 number?

11 A As previously mentioned, I was not
12 provided access to any underlying supporting
13 documentation, such as A-files, that would allow me
14 to conclude one way or another.

15 As a result, I'm relying on data sources
16 and testimony provided by the USCIS, and therefore,
17 I do not know for sure whether or not the updated
18 USCIS detailed data overstates the number of
19 applications subject to CARRP.

20 Q Okay. What's the basis for your saying
21 that the updated USCIS detailed data appears to
22 overstate the number of applications subject to
23 CARRP?

24 A I believe if you scroll down, my report
25 lays out the bases for my opinions. And I'm happy

1 THE WITNESS: As previously stated, I have
2 expertise in data analysis and understanding how
3 data is created from underlying supporting
4 documentation, and I am able to use the data
5 provided by USCIS to replicate a field in the June
6 '20, the June '20 USCIS data that indicates whether
7 or not the USCIS believes an application was
8 subject to CARRP procedures.

9 By Mr. Taranto:

10 Q When you say that the USCIS updated data
11 appears to overstate the number of applications
12 subject to CARRP, are you saying that it overstates
13 the number that were subject to CARRP at any time
14 during their pendency or are you saying it
15 overstates the number that remained subject to
16 CARRP from the time of referral up to the time of
17 their adjudication or the end of the study's
18 period?

19 MR. AHMED: Objection, misstates his expert
20 report. Objection, compound. Objection, vague.

21 THE WITNESS: I'm unable to answer that
22 question one way or another because it is unclear
23 from the data that I was provided whether or not
24 the column or field that indicates an application
25 was subject to CARRP is binary.

1 Meaning, I'm unable to determine whether
2 or not the USCIS' CARRP case flag means an
3 application was subject to CARRP at any point in
4 time between receipt date and application -- and
5 adjudication date.

6 By Mr. Taranto:

7 Q In your own analysis of trying to
8 determine which cases were subject to CARRP or
9 which applications were subject to CARRP, are you
10 trying to determine which cases were subject to
11 CARRP at any time or are you trying to determine
12 which cases were subject to CARRP from start to
13 finish?

14 MR. AHMED: Objection, compound. Objection,
15 vague. Objection, asked and answered.

16 THE WITNESS: Consistent with my previous
17 answer, I'm unable to determine whether or not a
18 column or field indicates whether or not an
19 application was processed under CARRP in the June
20 '20 data meant that an application was at any given
21 time processed to CARRP, processed under CARRP, or
22 was only processed under CARRP at time of
23 adjudication.

24 By Mr. Taranto:

25 Q Do you understand that the updated USCIS

1 Q How would knowing the sub-statuses for
2 each of the CARRP flagged cases, whether they are
3 NS Confirmed, NS not confirmed, NS Resolved, or
4 NS Unresolved, how would knowing that data for all
5 of the CARRP flagged applications enable you to
6 determine whether those flags are correct or not?

7 MR. AHMED: Objection, compound. Objection,
8 asked and answered. Objection, vague. Objection,
9 calls for speculation.

10 THE WITNESS: Without the data in front of me,
11 I cannot answer your question one way or another.

12 By Mr. Taranto:

13 Q What data?

14 A Sorry. The hypothetical data that you
15 mentioned that would identify various sub-statuses
16 with -- in addition to I guess the June '20 updated
17 USCIS data.

18 Q So you don't know if having that data,
19 the sub-status data, would enable you to separate
20 from the CARRP flag cases, those that are CARRP
21 cases and those that should not be flagged as CARRP
22 cases?

23 MR. AHMED: Objection, vague. Objection,
24 calls for speculation. Objection, asked and
25 answered. Objection, compound.

1 THE WITNESS: In this hypothetical, I believe
2 that the information, additional data, with the
3 NS Not Confirmed or other sub-statuses, would
4 assist me in this analysis. But I cannot conclude
5 one way or another whether or not I would change
6 any or update any fields in the USCIS data that
7 would change the CARRP flag from yes to no.

8 By Mr. Taranto:

9 Q What's the basis of your statement that
10 it would assist you in this analysis, of indicating
11 which cases were CARRP or which cases that are
12 CARRP flagged or not CARRP?

13 MR. AHMED: Objection, misstates the
14 testimony. Objection, calls for speculation.
15 Objection, vague.

16 THE WITNESS: I believe I address this in my
17 report. If you are asking me based on a
18 recollection of just having paragraph 14 up, I
19 believe I would be able to determine of the
20 applications that were processed under CARRP, which
21 ones had a NS Not Confirmed, be able to calculate
22 the percentage of applications with NS Not
23 Confirmed, as well as the mean to mean processing
24 time for those. Similar with the other
25 sub-statuses.

1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

8 By Mr. Taranto:

9 Q Do you understand that after a CARRP
10 case goes through vetting, the sub-status can
11 change to -- from one to -- one entry to another,
12 like to NS Not Confirmed or to NS Resolved?

13 MR. AHMED: Objection, compound. Objection,
14 vague. Objection, argumentative.

15 THE WITNESS: I do not recall specific
16 documents or data source or anything I reviewed to
17 that extent. But that is generally my
18 understanding and my recollection of the FDNS User
19 Guide or some other source.

20 By Mr. Taranto:

21 Q Are there any such sub-status entries
22 that would tell you definitively that an
23 application was never handled under CARRP?

24 MR. AHMED: Objection, vague. Objection,
25 calls for speculation. Objection, argumentative.

1 By Mr. Taranto:

2 Q Do you know if obtaining data on the NS
3 Concern type and sub-status field for the CARRP
4 applications would have any impact at all on your
5 determination whether cases were in CARRP or not?

6 MR. AHMED: Objection, argumentative.
7 Objection, asked and answered. Objection, calling
8 for speculation. Objection, compound.

9 THE WITNESS: Consistent with my previous
10 answers, without having data and documents to
11 analyze, I'm unable to determine how my conclusions
12 or my analyses may change one way or another.

13 By Mr. Taranto:

14 Q From the updated USCIS data produced in
15 June of 2020, do you know that about 0.266 percent
16 of them or one out of every 370,000 was submitted
17 to CARRP? Or I will ask you to assume that that's
18 true.

19 Now, if the USCIS data restates the
20 number of applications referred to CARRP, would
21 switching cases from CARRP to non-CARRP flag, make
22 that CARRP referral rate even lower?

23 MR. AHMED: Objection, vague. Objection,
24 calls for speculation. Objection to the extent
25 that you are accurately describing what the June of

1 THE VIDEOGRAPHER: We are going off the
2 record. The time is 12:29 p.m.

3 (A discussion was had off the record.)

4 THE VIDEOGRAPHER: We are back on the record.
5 The time is 12:31 p.m.

6 By Mr. Taranto:

7 Q Mr. Kruskol, we can go back to
8 Exhibit 1, your September 21st report. This is at
9 page 4, in paragraph 8. You indicate there you
10 were unable to review underlying applications. And
11 you testified to that, previously to it.

12 And also in the same paragraph you
13 indicate, quote, USCIS did not review underlying
14 applications to validate its result as to whether
15 any applications were subject to CARRP or not, end
16 quote.

17 MR. AHMED: Sorry, which paragraph are you
18 talking about because I'm looking at paragraph 8 --

19 MR. TARANTO: I am sorry, I apologize. That's
20 paragraph 10. That's why you didn't see it.

21 So paragraph 10 is the next page,
22 page 5. So let's look at that as well.

23 By Mr. Taranto:

24 Q I wanted to ask you, if you could -- I
25 will wait until we get to your paragraph 10.

1 Why is examination of the underlying
2 applications for validating results on whether an
3 application is subject to CARRP relevant, why is
4 that a concern to you, why is it relevant?

5 MR. AHMED: Objection, compound.

6 THE WITNESS: So my understanding is that
7 underlying applications would include information
8 such as an A-Number, the date filed, perhaps the
9 date received, information consistent with the CME
10 created dates, information consistent with the
11 country of birth, and other information that is
12 contained within the USCIS's update detailed data.

13 Without reviewing any of the underlying
14 CARRP applications, I'm unable to confirm whether
15 or not the data within the updated USCIS detailed
16 data is accurate.

17 By Mr. Taranto:

18 Q Did you review the USCIS testimony by
19 Mr. Shinaberry, by USCIS of Mr. Shinaberry explain
20 that review of the 10.6 million applications is not
21 necessary to determine which ones were ever
22 referred to or processed in CARRP?

23 MR. AHMED: Objection to the extent you
24 misstate Mr. Shinaberry's deposition testimony.

25 THE WITNESS: Sitting here today I recall

1 similar or consistent testimony from
2 Mr. Shinaberry.

3 By Mr. Taranto:

4 Q Do you have any basis for disagreeing
5 with USCIS that a hand's on review of the
6 10.6 million applications is not needed to
7 determine which ones were referred to CARRP?

8 MR. AHMED: Objection to the extent you
9 misstate USCIS's testimony.

10 THE WITNESS: What I do not know, and as I
11 point out in my report, is whether or not the
12 review of the underlying application and the CARRP
13 processing status is accurately reflected in the
14 USCIS' data.

15 By Mr. Taranto:

16 Q Aside from looking at the forms that you
17 pulled, N-400 and I-485, sample forms or sample
18 applications, have you ever reviewed any completed
19 forms or applications for I-485 or N-400?

20 MR. AHMED: Objection, compound.

21 THE WITNESS: I do not recall.

22 By Mr. Taranto:

23 Q Did plaintiffs' attorneys provide any
24 completed applications for your review?

25 A I do not recall.

1 Q You indicated some things that are
2 contained in the applications, some types of
3 information, like data received, A-Number -- or
4 application number. I think there were a number of
5 things that you mentioned. I don't recall
6 specifically what all of that included.

7 But is there anything else that you
8 would review applications for to determine which
9 ones were flagged as CARRP?

10 A Without having the application and
11 access to individuals at USCIS, it is unclear what
12 additional information I would need to review an
13 application from receipt by USCIS, all the way
14 through adjudication, and what information is
15 created during the process.

16 Q Did you see anything on the application
17 forms that you examined that would identify whether
18 an application was CARRP processed or referred to
19 CARRP?

20 A As I previously testified, I was only
21 able and only recall reviewing blank applications.
22 And my recollection is that those applications do
23 not contain a field or a category that indicate
24 whether or not an application is subject to
25 CARRP.

1 probably work best.

2 MR. AHMED: Thank you.

3 MR. TARANTO: Thank you, Sameer.

4 By Mr. Taranto:

5 Q Do you know if all the data fields in
6 the June 2020 detailed data are on the I-485 and
7 N-400 paper forms?

8 A I do not know one way or another, but I
9 do not believe they are.

10 Q If you had access to the underlying
11 10.6 million applications that's the source of the
12 detailed data produced to plaintiffs in June of
13 2020, what would you have done differently in your
14 analysis?

15 A I don't know sitting here today that I
16 would have done any different analyses. However,
17 one of the procedures that I typically undertake
18 when analyzing large sets of data is ensuring and
19 validating the data that I'm analyzing.

20 Very often this includes understanding
21 the source, oftentimes in hard document form, that
22 is the basis for my data analysis.

23 Q And did you obtain from the plaintiffs'
24 attorneys a sample set of applications that, say,
25 that you could determine what impact it might have

1 on your analyses, having that sort of
2 information?

3 A I do not recall and do not believe that
4 I have seen a completed A-File.

5 Q How long would it take you to review
6 each application if you had these 10.6 million
7 applications or some number of them?

8 A Without access to the actual
9 applications, I do not know the answer.

10 Q From having the form application, do you
11 have a general sense of how much time -- can you
12 give a range of how long it would take you to
13 review a single application?

14 A I have not performed a time and motion
15 study to understand how long one application would
16 take to review.

17 Q Yeah. How long did it take you to
18 review the application forms, the I-485 and N-400
19 blank, uncompleted forms that you examined?

20 A I do not recall.

21 Q Was it more than five minutes?

22 A As previously stated, I do not recall.

23 Q If we can move to page 4 of your report,
24 Exhibit 1. The September 21st report at
25 paragraph 9, which is in the middle of the page,

1 you wanted to get copies of the applications, if
2 you had all of that, what would you do differently
3 in your analyses to determine which cases, if any,
4 were correctly flagged as CARRP cases and which
5 were never referred to CARRP?

6 MR. AHMED: Objection, compound. Objection,
7 calls for speculation.

8 THE WITNESS: Sitting here today, I don't know
9 all the analyses that I may perform with the
10 additional sub-status and NS Concern fields, in
11 addition to if I had the ability to review A-files.

12 However, as pointed out in my report,
13 I'd be able to, one, potentially confirm the
14 completeness and accuracy of certain data within
15 the updated USCIS data produced in June 2020, while
16 perform additional analyses just on sub-setting the
17 USCIS data based on the NS Concern types and
18 sub-statuses.

19 As I mentioned, certain additional
20 analyses may include counting, percentages,
21 comparisons, trends, and looking at lag times for
22 adjudication.

23 By Mr. Taranto:

24 Q If you had all of that data, do you know
25 if you would be able to determine that any of the

1 CARRP flagged cases were incorrectly identified as
2 CARRP and were never referred to CARRP?

3 MR. AHMED: Objection, calls for speculation.
4 Objection, asked and answered. Objection,
5 compound.

6 THE WITNESS: Without reviewing and analyzing
7 the data and documents that were mentioned, I do
8 not know one way or another what conclusions I
9 would reach.

10 By Mr. Taranto:

11 Q If we can move now -- staying on
12 Exhibit 1, your September 21st report. If we can
13 move now to page 5, and paragraph 10. Let me see,
14 I guess that begins -- it's split on the pages.
15 Pages 4 and 5.

16 In paragraph 10 you write that USCIS
17 relied on an algorithm to identify CARRP processed
18 applications updated detailed data, the data
19 produced in June of 2020. And you say it was
20 created for the litigation.

21 What point are you trying to make here
22 that it was created for the litigation, or that
23 USCIS relied on an algorithm created for the
24 litigation?

25 MR. AHMED: Objection, argumentative.

1 report and second supplemental report.

2 By Mr. Taranto:

3 Q Moving forward to your paragraph 11 in
4 the report, again staying on page 5, where you say
5 that, USCIS's use of this algorithm to identify
6 CARRP processed applications appears to overstate
7 the number of applications subject to CARRP.

8 What is the basis for your claim that
9 the USCIS algorithm overstated the number of
10 applications subject to CARRP?

11 MR. AHMED: Objection, you misstate his expert
12 report again. It appears to overstate; not
13 overstate. You said both in that last question.

14 Also objection, asked and answered.

15 By Mr. Taranto:

16 Q You may answer.

17 A Can you repeat the question?

18 Q Yes. What's the basis for your claim
19 that the USCIS algorithm appears to overstate the
20 number of applications subject to CARRP in the
21 USCIS data from June of 2020?

22 MR. AHMED: Objection, asked and answered.

23 THE WITNESS: As I previously mentioned, the
24 identification of whether or not an application was
25 subject to CARRP in the updated USCIS detailed data

1 is based on CME or case management entity dates
2 that were derived from the FDNS database.

3 My understanding and recollection of the
4 FDNS User Guide is that by pulling in the early CME
5 date, or the early CME date associated with an
6 application, that this is not an indicator of
7 whether or not the application was absolutely
8 subject to CARRP. It is simply an indicator that
9 an application may have been subject to CARRP.

10 As a result of the language of could or
11 may within the FDNS User Guide, my analysis of the
12 data, I am able to conclude that there is a
13 potential for overstatement of CARRP processed
14 applications or A-files based on CME data alone.

15 By Mr. Taranto:

16 Q Have you made any attempt to quantify
17 the extent of the overstatement, if any, that there
18 may have been in the flagging of applications as
19 referred to CARRP?

20 MR. AHMED: Objection, again, he's always
21 consistently referred to a potential or appears to
22 overstate. And I just want to make sure that the
23 question isn't saying that his opinion is that he
24 has made some opinion that there is a definite
25 overstatement.

1 THE WITNESS: I have not attempted to quantify
2 the apparent overstatement because I believe that I
3 would need additional fields contained within the
4 USCIS -- sorry, strike that -- FDNS-DS databases.

5 By Mr. Taranto:

6 Q Do you have any basis for saying that
7 the apparent overstatement is more than
8 1 percent?

9 MR. AHMED: Objection, calls for
10 speculation.

11 THE WITNESS: As previously mentioned, I have
12 not been afforded the data or documents to make any
13 such determination.

14 By Mr. Taranto:

15 Q So you would be speculating to say that
16 it's even more than 1 percent, right?

17 MR. AHMED: Objection, asked and answered.
18 Objection, argumentative.

19 THE WITNESS: Yes.

20 By Mr. Taranto:

21 Q Does your suggestion that USCIS
22 overstated the number of applications -- I am
23 sorry. Withdrawn.

24 Does your suggestion that USCIS appears
25 to have overstated the number of applications

1 sorry the FDNS User Guide finds as all stages of
2 CARRP to be classified as a CARRP case as I sit
3 here today and based on my reading of the FDNS User
4 Guide.

5 By Mr. Taranto:

6 Q Under your definition of a CARRP case,
7 would a CARRP case include only applications where
8 an applicant was determined after vetting to still
9 be either a KST or a non-KST, and not non-NS?

10 MR. AHMED: Objection, compound. Objection,
11 vague.

12 THE WITNESS: My understanding of the way a
13 CARRP case was identified in USCIS data, it would
14 not matter what stages of CARRP or sub-status the
15 application went through. Merely the fact that a
16 CME date was open would classify and define a given
17 application as CARRP.

18 By Mr. Taranto:

19 Q Do you agree with that criteria for
20 identifying a CARRP case, for determining whether a
21 case is a CARRP case?

22 A I have reached an opinion -- no opinion
23 one way or another.

24 Q If a case is processed in CARRP for a
25 period of time, let's say a year, year and a half,

1 Q If an application is pending at any time
2 that a CME record is open, are you able to say that
3 an application flagged as CARRP was never in
4 CARRP?

5 MR. AHMED: Objection, calls for
6 speculation.

7 THE WITNESS: As I think I previously
8 answered, I will not be able to say with
9 100 percent certainty that the application was or
10 was not ever subject to CARRP.

11 By Mr. Taranto:

12 Q Can you say that with even 50 plus
13 percent probability that an application was never
14 in CARRP if you know that the application was
15 pending at any time while a CME record was open?

16 MR. AHMED: Objection, asked or answered --
17 asked and answered. Objection, calls for
18 speculation.

19 THE WITNESS: Based on my understanding of the
20 FDNS-DS User Guide, the deposition of
21 Mr. Shinaberry, as well as the updated detailed
22 USCIS data as provided in June 2020, I don't know
23 the answer one way or another.

24 By Mr. Taranto:

25 Q Turn to 21 on your report -- of your

1 data, you know, typically associated with Medicare,
2 Medicaid reimbursement, or any such data.

3 By Mr. Taranto:

4 Q Yes.

5 A Okay. Thank you for that
6 clarification.

7 Q Right. I am sorry. I was referring to
8 your claim that there are data inconsistencies and
9 anomalies.

10 A I understand.

11 As I point out in footnote 36 to my
12 expert report, there are certain inconsistencies
13 and anomalies that I identify that I don't believe
14 Dr. Siskin adjusted for or analyzed vis-a-vis his
15 regression analyses prior to or even subsequent to
16 the issuance of my second supplemental report in
17 September.

18 Q Okay. What data inconsistencies or
19 anomalies do you believe you have identified that
20 Dr. Siskin has not addressed?

21 A Based on my recollection of Dr. Siskin's
22 October '20 report, October 13, 2020 report,
23 October 2020 report, I do not believe he addressed
24 how the consideration of any of the data anomalies
25 or inconsistencies I identify would impact his

1 regression analyses, his test of statistical
2 significance, or P-values.

3 Q Do you have any other criticisms of
4 Dr. Siskin's October 13th report or any of his
5 findings or conclusions?

6 A I do.

7 Q What are they?

8 A Without having Dr. Siskin's report in
9 front of me, I do not have all of them memorized,
10 in memory, however, I believe Dr. Siskin
11 figuratively and literally misstates my reports. I
12 believe he has certain data analysis errors. I
13 believe he tries to conclude on my state of mind.
14 And I believe he tries to be the arbiter of what is
15 acceptable to be presented in front of a trier of
16 fact.

17 Q What misstatements are you claiming
18 Dr. Siskin made?

19 A I do not recall using the term
20 misstatement. If you are asking of my criticisms
21 that I just laid out, I would need to see
22 Dr. Siskin's report to point you to the specific
23 paragraphs and pages that I'm referencing.

24 Q Do you have access to that?

25 A I do not have it in front of me.

1 A So based on my recollection, in addition
2 to the criticisms of broad categories and specific
3 sentences that we just discussed, Dr. Siskin claims
4 that I misperceived data inconsistencies.
5 Perception to me is a state of mind. And the
6 assertion that I misperceived something gets into
7 my state of mind and I think is an inappropriate
8 conclusion for an expert to reach.

9 In addition, there are other instances
10 where Dr. Siskin says that my report claims one
11 thing is true, when it's not true.

12 For example, on the same page that we
13 were just looking at, Dr. Siskin's report says that
14 I claim that there are duplicates within the USCIS
15 data. I did not do that in my report. I pointed
16 out that there are potential duplicates.

17 In addition, later on in the report, or
18 earlier, I don't recall exactly, Dr. Siskin takes
19 one of my sentences, which I believe relates to the
20 percentage of all receipts from October 1, 2012, to
21 September 30, 2019, of forms I-485 and N-400 that
22 were subject to CARRP, and he inserts the word only
23 into my conclusion, which changes the meaning of
24 what I was saying.

25 In addition, I believe he takes certain

1 misstates his expert report. Objection, compound.

2 THE WITNESS: I am unable to confirm whether
3 or not the USCIS's data was checked for duplicates,
4 quote, both at the end of each query in each of
5 those systems, referring to claims 4, claims 3, LS,
6 et cetera, and then given after combining the
7 application data.

8 However, I am able to confirm that the
9 updated USCIS data contains an anomalized
10 identifier that was labeled new ID number, making
11 it -- or allowing for the masking or redaction of
12 A-Numbers.

13 By Mr. Taranto:

14 Q I would like to turn now to the next
15 page in your report, Exhibit 1, page 11, to your
16 paragraph 25.

17 And here you say that you found 213,647
18 instances of potential duplicate records.

19 Do you call them potential duplicates
20 since you don't know if they are actual
21 duplicates?

22 A Consistent with my previous testimony,
23 there is an anomalized identifier, a new ID, that
24 is unique for all 10,621,147 or so records in the
25 updated detailed USCIS data that I was provided.

1 As a result, I am unable to confirm
2 whether or not I identified true duplicate records
3 or if there is another explanation for why I was
4 able to identify 24 records with similar
5 characteristics, such as form type, applicant age,
6 applicant sex, et cetera.

7 Q You didn't match any of the records on
8 name, birth date or A-Number or C-Number, since you
9 didn't have that information, correct?

10 MR. AHMED: Objection, argumentative.
11 Objection, compound.

12 THE WITNESS: With the data I had I was unable
13 to perform the analysis you are suggesting.

14 By Mr. Taranto:

15 Q Do you have anything to confirm that any
16 of the potential duplicates, duplicate entries you
17 found involve the same application?

18 A I do not believe I have the data to know
19 whether or not there is a same or different form
20 I-485 associated with the same applicant age, sex,
21 country of birth, receipt date, adjudication
22 status, adjudication date, and description of class
23 of admission. That is not data I believe I have in
24 my possession.

25 Q Did you consider the prospect that

1 multiple births, like twins or even triplets, could
2 account for many of your potential duplicates?

3 MR. AHMED: Objects, calls for speculation.

4 THE WITNESS: I did not layout my report that
5 twins or triplicates would be identified via
6 24 separate records within the updated USCIS
7 database.

8 By Mr. Taranto:

9 Q But you say you found over 200,000
10 potential duplicates. Did you consider the
11 frequency of twins or multiple births as accounting
12 for a significant amount or even most of your
13 listed duplicates -- most of your found
14 duplicates?

15 MR. AHMED: Objection, vague. Objection,
16 asked and answered. Objection, calls for
17 speculation.

18 THE WITNESS: I did not perform an analysis of
19 the rate of births in all the countries that were
20 listed in the updated USCIS data related to either
21 twins, triplets, et cetera.

22 By Mr. Taranto:

23 Q Did you make any attempt at all to
24 obtain information on frequency of births of twins
25 or of multiple births?

1 MR. AHMED: Objection, argumentative.
2 Objection, compound. Objection, calls for
3 speculation.

4 THE WITNESS: I did not need to obtain that
5 data to conclude that I identified potential
6 duplicate records.

7 By Mr. Taranto:

8 Q Before you submitted your September 21,
9 2020 report, you didn't even consider the prospect
10 that multiple births, twins or more, could account
11 for a number of the duplicates that you found, did
12 you?

13 MR. AHMED: Objection, argumentative.
14 Objection, asked and answered.

15 THE WITNESS: I disagree that it's not a
16 consideration for instances where I found two
17 duplicate records and I didn't consider that prior
18 to the issuance of my report. I do not have the
19 data to identify or calculate, as your question
20 suggests, the proportion of the 213,647 potential
21 duplicate records identified, how many of those
22 were related to instances of potential twins,
23 triplets, et cetera.

24 By Mr. Taranto:

25 Q Do you have any information concerning

1 the frequency of twin births or of multiple
2 births?

3 MR. AHMED: Objection, vague. Objection,
4 argumentative.

5 THE WITNESS: The only thing I've seen is the
6 mention of birth rates in the United States that
7 Dr. Siskin applies to the potential duplicates that
8 I find that are a result of individuals submitting
9 applications to become U.S. citizens or to have an
10 adjustment of status. Meaning these individuals
11 are from outside of the United States.

12 By Mr. Taranto:

13 Q Dr. Siskin referred to the Centers for
14 Disease Control, National Center for Health
15 Statistics Data, showing frequency of twin births
16 in the United States of about 3.3 percent.

17 Do you know if it's less than that for
18 countries outside the United States?

19 MR. AHMED: Objection to the extent you are
20 misstating Dr. Siskin's report because you have
21 not, even though you have access to it, not shown
22 the witness it.

23 THE WITNESS: I do not have the data to
24 perform the analyses to conclude one way or
25 another.

1

2 By Mr. Taranto:

3 Q Dr. Siskin cited the CDC, National
4 Center for Health Statistics Data and Report, and
5 included a web link.

6 Did you examine the article, examine the
7 CDC publication?

8 MR. AHMED: Objection to the extent you are
9 misstating Dr. Siskin's report.

10 THE WITNESS: I have not.

11 By Mr. Taranto:

12 Q Why not?

13 A As a first order, I do not believe it's
14 appropriate to apply or attempt to apply birth rate
15 of twins, triplicates, et cetera, in the U.S., to
16 applicants that submitted a form I-485 or N-400.

17 In addition, Dr. Siskin's report was
18 issued October 13th, which was seven days ago, and
19 I have not had the time to do a full replication
20 and analysis of Dr. Siskin's report.

21 Q Do you believe that twin births occur
22 only in the United States and they don't occur in
23 other countries in the world?

24 MR. AHMED: Objection, argumentative.

25 THE WITNESS: I do not know one way or

1 another, but I would assume that yes, there are
2 instances of twins and triplicates in other
3 countries. I do not know that those are the same
4 rates or consistent rates with birth rates in the
5 United States.

6 By Mr. Taranto:

7 Q If we take Dr. Siskin -- if we take the
8 CDC rate for the United States at about
9 3.3 percent, we project that over 6. -- a
10 population of 10.6 million, which is the number of
11 applications we have, the math gives us -- I will
12 just ask you to assume my math is correct, if you
13 can't do the math right on the fly -- is 348,900.
14 Let's round it up to 350,000.

15 Among that population of 10.6 million
16 people, if we look at people in the United States
17 born in that time period, we would expect about
18 350,000.

19 I want you to assume that's the case for
20 purposes of my question.

21 For twin births -- if we are looking at
22 the population of the 10.6 million who submitted
23 applications, would you expect that the number of
24 twin births would be more than 200,000, less than
25 200,000?

1 MR. AHMED: Objection, calls for speculation.
2 Objection to the extent you aren't accurately
3 quoting the CDC report or Dr. Siskin's report.

4 THE WITNESS: So I understand the hypothetical
5 correctly, you rounded approximately 348,000
6 applicants up by 2,000 applicants, to 350,000
7 applicants, and applied that that would be an
8 acceptable rate of twin births identified in a
9 population. Assuming your math is correct, I do
10 believe I track your hypothetical.

11 However, I do not see --

12 By Mr. Taranto:

13 Q Let me just interject. The number was
14 349,800, which I rounded up to 350,000. I'm sorry.

15 A Thank you. Thank you.

16 MR. AHMED: Same objection as before.

17 THE WITNESS: So I agree that it's very
18 possible or it is possible that there are entries
19 that are within the data set twice that are not the
20 same person. But the rate of twins does not
21 explain why I identified 24 records with the same
22 form number, applicant age, applicant sex,
23 applicant country of birth, et cetera.

24 By Mr. Taranto:

25 Q How many instances did you find

1 A That is one reason.

2 Q Okay. And also is another reason is
3 because the number involved was such that you
4 didn't think it would significantly affect your
5 analyses or conclusions?

6 MR. AHMED: Objection, calls for
7 speculation.

8 THE WITNESS: That was not a factor that I
9 recall considering.

10 By Mr. Taranto:

11 Q You can't say whether the removal of the
12 potential duplicates would impact, significantly
13 impact your analyses or change any of your
14 conclusions, can you?

15 MR. AHMED: Objection, vague. Objection,
16 asked and answered. Objection, calls for
17 speculation.

18 THE WITNESS: Can you define what you mean by
19 the word "significantly"?

20 By Mr. Taranto:

21 Q Well, statistically significant is what
22 I mean, since you are being presented as a
23 statistical expert.

24 MR. AHMED: Objection, vague.

25 THE WITNESS: I do not know one way or another

1 whether or not the removal of duplicates would have
2 a statistically significant impact on my analyses
3 and conclusions.

4 By Mr. Taranto:

5 Q For the apparent duplicates that you
6 found, what percentage of them or about how many of
7 them are flagged as CARRP cases?

8 A I do not have a precise recollection.
9 However, I do believe there are some potential
10 duplicates that are flagged as CARRP cases. I did
11 not --

12 Q Would you agree -- I'm sorry.

13 A I did not quantify and calculate any
14 percentages.

15 Q Would you agree that less than
16 one percent of the apparent duplicates you found
17 are flagged as CARRP cases?

18 MR. AHMED: Objection, asked and answered.
19 Objection, calls for speculation.

20 THE WITNESS: Without performing the analysis,
21 I would not be able to conclude one way or
22 another.

23 By Mr. Taranto:

24 Q Isn't it a fact that it's even closer to
25 zero percent than one percent for your apparent

1 duplicates that are flagged as CARRP cases?

2 MR. AHMED: Objection, argumentative.

3 Objection, asked and answered. Objection, calls
4 for speculation.

5 THE WITNESS: Consistent with my prior
6 analysis, I have not undertaken such analysis to
7 quantify and determine the percentages of the
8 amount of potential duplicates that are CARRP
9 cases, and as a result I have no opinion one way or
10 another.

11 By Mr. Taranto:

12 Q Well, let's look at the ones that you
13 list in your Exhibit BH. How many of those involve
14 CARRP flagged applications?

15 MR. AHMED: Objection, asked and answered.

16 By Mr. Taranto:

17 Q Do you need to see that on screen again?

18 MR. AHMED: It is on my screen.

19 MR. TARANTO: Okay. I am sorry, on the
20 screen.

21 MR. AHMED: I am just objecting, asked and
22 answered and calls for speculation because he said
23 he didn't do that analysis.

24 By Mr. Taranto:

25 Q Okay. I will withdraw that question and

1 or there may be a second page.

2 Q We can go down to the next page of your
3 exhibit.

4 A Thank you. So this page of Exhibit BH
5 shows a CARRP case flag in the middle of the page
6 that was pulled right from the updated USCIS data.
7 And for each of the top ten results that I pulled,
8 that CARRP case flag is no.

9 Q All right. So none of them are CARRP
10 cases -- are CARRP flagged cases, correct?

11 MR. AHMED: Objection, asked and answered.

12 THE WITNESS: None of the 30 potential
13 duplicate records I identified, 30 line items on
14 this, are identified as CARRP.

15 By Mr. Taranto:

16 Q Of your listed duplicates on Exhibit BH,
17 how many involve applicants from majority Muslim
18 countries?

19 A I have not performed such analysis and
20 don't know the answer one way or another.

21 Q Well, you list the countries there. Do
22 you recognize any of those countries as being
23 countries with Muslim majority?

24 MR. AHMED: Objection, asked and answered.

25 Objection, argumentative.

1 THE WITNESS: I believe my report outlines all
2 of the countries identified as being Muslim
3 majority.

4 Sitting here today, I do not recall if
5 any of the countries that are listed in Exhibit BH
6 are identified as Muslim majorities. It is
7 possible though.

8 By Mr. Taranto:

9 Q If I were to represent to you that you
10 do not list any of those countries as Muslim
11 majority, would you take issue with that?

12 MR. AHMED: Objection, asked and answered.
13 Objection, argumentative. Objection, calls for
14 speculation.

15 THE WITNESS: I will not take issue with your
16 assertion of true.

17 By Mr. Taranto:

18 Q What percentage of your duplicates that
19 you say you found, the over 200,000, involve
20 applicants from countries with a Muslim majority?

21 MR. AHMED: I just want to object because the
22 transcript says duplicates, and the report says
23 potential duplicates.

24 By Mr. Taranto:

25 Q I'm sorry, potential duplicates.

1 that of USCIS, correct?

2 MR. AHMED: I just want to object because I
3 don't believe that you read that accurately
4 100 percent.

5 MR. TARANTO: Right. I was actually
6 paraphrasing it.

7 By Mr. Taranto:

8 Q But what you say about exclusion --
9 about not excluding all date anomalies, you are
10 there not referring to USCIS saying they didn't
11 exclude all date anomalies, are you?

12 A I do not believe I am directly quoting
13 the USCIS 30(b)(6) witness.

14 Q Right. You are saying it's your own
15 judgment that there are date anomalies that weren't
16 excluded, you are not saying that USCIS represented
17 that there were date anomalies they didn't
18 exclude?

19 MR. AHMED: Objection, vague.

20 THE WITNESS: The USCIS witness --

21 By Mr. Taranto:

22 Q Let's move on. I will withdraw that
23 question and go to the next one.

24 In paragraph 26, you suggest that the
25 inclusion of applications adjudicated 60 days or

1 less is something you believe involves a
2 date anomaly, correct?

3 MR. AHMED: Objection, misstates the expert
4 report.

5 THE WITNESS: I disagree.

6 By Mr. Taranto:

7 Q Pardon? You disagree.

8 So you have no criticism of the fact
9 that the data includes cases adjudicated within
10 60 days or less?

11 MR. AHMED: Objection, argumentative.
12 Objection, misstates the expert report.

13 THE WITNESS: I believe I performed analyses
14 of the number of days of adjudication based on the
15 application receipt date and last status date for
16 applications within the updated USCIS data.

17 I was able to analyze the number of days
18 to adjudication in various what I will call buckets
19 of number of days.

20 And my understanding is that it is
21 inconsistent with a reasonable expectation of time
22 for an application to be processed in, let's say,
23 one day.

24 I believe Dr. Siskin or the USCIS data
25 analyst calls this rare.

1 And so I simply pointed out that these
2 adjudication processing times exist.

3 MR. AHMED: Can we see -- sorry to object. I
4 just -- on my screen I can't see the entire
5 paragraph 26. And I -- I don't know if there is
6 any way to do that. But obviously the entire
7 paragraph is relevant to this discussion.

8 By Mr. Taranto:

9 Q Well, in your paragraph 6, you refer to
10 adjudication within 60 days as being, quote, your
11 understanding from counsel for plaintiffs that this
12 is inconsistent with a reasonable expectation of
13 the time it usually takes to adjudicate an I-485 or
14 N-400 application, end quote. Correct? That's
15 what you state there, right?

16 A I believe that is incorrect as to the
17 paragraph number we are at and the direct quote
18 from my report.

19 Q What, you are saying I didn't quote that
20 correctly?

21 MR. AHMED: Sorry, Leon, I heard paragraph 6
22 and not 26.

23 By Mr. Taranto:

24 Q I'm sorry, 26. I'm sorry, 26.

25 A In addition, I do believe that the quote

1 was inconsistent with what I wrote. But I'm happy
2 to have the court reporter read it back.

3 Q All right. Let's -- we can blow up
4 paragraph 26.

5 If you can read from the last sentence on
6 page 11, starting there. Just read that last
7 sentence.

8 A I understand from counsel for plaintiffs
9 that this is inconsistent with a reasonable
10 expectation of the time it usually takes to
11 adjudicate an I-485 or N-400 application. As a
12 result, I analyzed --

13 Q That's all right. I just wanted you to
14 read the one sentence. That's fine. That's
15 exactly where I need you to stop.

16 Here you are talking about adjudications
17 that occur within days 1 to 60 after an application
18 is received, correct?

19 A That is the implication of the dates I
20 compared from the USCIS data.

21 Q Yes. And who was counsel for plaintiff
22 who gave you this understanding of the reasonable
23 time it takes to -- that it usually takes to
24 adjudicate these applications?

25 A I do not recall who specifically from

1 plaintiffs' counsel gave me that instruction.

2 Q Do you have any other information or
3 support concerning the reasonable expectation of
4 the time it usually takes to adjudicate an
5 application of this type?

6 A Based on discussions between Dr. Siskin
7 and the USCIS data analysts that were disclosed in
8 Dr. Siskin's report, I understand that the USCIS
9 data analysts, whom I was not able to speak with,
10 also said that it was a, quote, rare event to have
11 adjudications between 1 and 60 days, based on my
12 recollection. The data analyst may have said
13 between 1 and 30 days.

14 Q So we have 10.6 -- we have about
15 10 million adjudications. Let's assume we have
16 10 million adjudications.

17 What percentage of them would you expect
18 to fall within the, quote, unquote, usual time?

19 MR. AHMED: Objection, calls for
20 speculation.

21 THE WITNESS: I have no basis one way or
22 another and have performed no such analysis.

23 By Mr. Taranto:

24 Q Did you see that in the USCIS detailed
25 data that over 98 percent of the adjudications took

1 more than 60 days?

2 MR. AHMED: Objection, calls for speculation.

3 Objection, I'm unclear where he would
4 see that. Are you asking if he did perform some
5 sort of analysis or where exactly in the data does
6 that statistic come from?

7 MR. TARANTO: From his Exhibit BI.

8 By Mr. Taranto:

9 Q But anyway, would you agree that the
10 USCIS data shows that less than 2 percent of the
11 adjudications took 60 days or less --

12 MR. AHMED: Objection.

13 By Mr. Taranto:

14 Q -- after application received?

15 MR. AHMED: Objection, calls for speculation.
16 Objection, argumentative.

17 THE WITNESS: I do not have my exhibit in
18 front of me where I believe I perform this
19 calculation. However, based on my recollection,
20 the percentage is not inconsistent with the same
21 percentage I calculated or the percentage of
22 adjudications after the 60 day.

23 By Mr. Taranto:

24 Q What do you mean by "usual time," the
25 time that it usually takes to adjudicate an