

# EXHIBIT 33

~~FILED UNDER SEAL~~

~~ATTORNEYS' EYES ONLY~~

Emrich, Matthew

January 8, 2020

1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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ABDIQAFAR WAGAFE, et al., on	:	
behalf of themselves and others	:	Case No.:
Similarly situated,	:	17-CV-00094 RAJ
Plaintiffs,	:	
VS.	:	
DONALD TRUMP, President of the	:	ATTORNEYS' EYES ONLY
United States, et al.,	:	
Defendants.	:	

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Washington, DC

Wednesday, January 8, 2020

Videotaped Deposition of MATTHEW EMRICH  
held at U.S. Department of Justice, 450 5th Street,  
NW, Washington, DC 20530, commencing at 9:37 a.m.,  
before Sherry L. Brooks, Certified LiveNote Reporter  
and Notary Public, in and for the District of  
Columbia.

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1 APPEARANCES:

2 Attorney for Plaintiffs:

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11 and

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1 APPEARANCES CONTINUED:

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3 Attorney for Defendants:

4 LEON TARANTO, ESQ.

5 JESSE BUSEN, ESQ.

6 U.S. DEPARTMENT OF JUSTICE

7 175 N Street, NE

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9 Washington, DC 20002

10 (202) 616-4231

11 E-mail: Leon.B.Taranto@usdoj.gov

12

13 ALSO PRESENT:

14 David Campbell, Videographer

15

16 USCIS Attorneys:

17 Caitlin Miller, Esq.

18 Danielle Blair, Esq.

19

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1 APPEARANCES CONTINUED:

2

3 ALSO PRESENT:

4 Other Government Attorneys:

5 Ethan Kanter, Esq.

6 Brendan Moore, Esq.

7 Michelle R. Slack, Esq.

8 Andrew Brinkman, Esq.

9 Victoria Braga, Esq.

10 Kathryn Davis, Esq.

11

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1 C O N T E N T S

2 THE WITNESS:

3 MATTHEW EMRICH

4 By Ms. Pasquarella ..... 8

5 By Mr. Taranto ..... 295

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10	EMRICH EXHIBIT NO.	PAGE NO.
11	Exhibit 39 FDNS Program Assessment - Field Managers	87
12	Training Course - Jan. 2010 (Confidential)	
13	Exhibit 40 Operational Guidance - USCIS (Confidential)	100
14	Exhibit 41 Memorandum Dated 8/28/17 to Robert Bukowski	141
15	(Confidential)	
16	Exhibit 42 USCIS Shark Tank - July 2015 (Confidential)	200
17	Exhibit 43 Memorandum Dated 3/31/15 to Susan Krafla, et	207
18	al (Confidential)	
19	Exhibit 44 FDNS FY16 Field Priorities - 10/6/15 - U.S.	212
20	Citizenship & Immigration Svs. (Confidential)	
21	Exhibit 45 Memorandum Dated 8/24/15 - Re: Monthly Call	218
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4 Exhibit 46 Memorandum Dated 6/22/17 to Matthew Emrich 224

5 (Confidential)

6 Exhibit 47 Watchlist Service-Privacy Impact Assessment 232

7 Update - 5/5/16

8 Exhibit 48 Watchlist Service-Privacy Impact Assessment 236

9 Update - 3/4/16

10 Exhibit 49 Memorandum Dated 4/22/16 to B. Prelogar, et 247

11 al. (Confidential)

12 Exhibit 50 KASOTC CARRP Document (Confidential) 250

13 Exhibit 51 FDNS-DS - 5/18/16-Privacy Impact Assessment 262

14 Exhibit 52 ATLAS Overview - USCIS FDNS Directorate 265

15 June 2016 (Confidential)

16 Exhibit 53 Review of Defense Advanced Research Projects 273

17 Agency - 2.0 Social Media Pilot - 6/2/16

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1 P R O C E E D I N G S

2 \* \* \* \* \*

3 THE VIDEOGRAPHER: We are now on the  
4 record on January 8th, 2020 and the time on the video  
5 monitor is approximately 9:37 a.m.

6 This is media unit Number 1 of the  
7 videotape deposition of Matthew Emrich. This is in  
8 the matter of Abdiqafar Wagafe, et al. versus Donald  
9 Trump, President of the United States, et al.

10 This is in the United States District  
11 Court, Western District of Washington at Seattle,  
12 Case No. 17-CV-00094-RAJ.

13 This deposition is being held at 450 5th  
14 Street, Northwest, Washington, DC 20530. The court  
15 reporter today is Sherry Brooks for Henderson Court  
16 Reporting, and the videographer today is David  
17 Campbell, also for Henderson.

18 Counsel, will you please identify  
19 yourselves for the record, after which the witness  
20 will be sworn in and we can proceed.

21 MS. PASQUARELLA: Jennie Pasquarella for  
22 the plaintiffs.

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1 MR. HYATT: Heath Hyatt, Perkins Coie, for  
2 the plaintiffs.

3 MR. GELLERT: Nicholas Gellert also for  
4 the plaintiffs.

5 MS. SEPE: Cristina Sepe also for the  
6 plaintiffs.

7 MR. TARANTO: Leon Taranto, Civil  
8 Division, Department of Justice for the defendants.

9 MR. BUSEN: Jessie Busen, Department of  
10 Justice, for the defendants.

11 \* \* \* \* \*

12 Whereupon,

13 MATTHEW EMRICH

14 called for examination by counsel  
15 for Plaintiffs and having been duly  
16 sworn by the Notary Public, was examined  
17 and testified as follows:

18 - - -

19 EXAMINATION BY COUNSEL FOR PLAINTIFFS

20 BY MS. PASQUARELLA:

21 Q. Good morning, Mr. Emrich.

22 A. **Good morning.**

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1 Q. Okay. Are FDNS officers given training to  
2 address anti-discrimination -- sorry. Let me  
3 rephrase. Are FDNS officers given  
4 anti-discrimination training?

5 A. The -- all of the employees of CIS have to  
6 take annual -- annual training on sexual harassment,  
7 and I believe that training touches upon prevention  
8 of discrimination. I -- I -- all of the FDNS  
9 officers and officers who are about -- who are  
10 enrolled in the CARRP training have to take the  
11 cultural awareness training.

12 The cultural awareness training does  
13 remind officers that adjudicating benefits based --  
14 for any discriminatory reason is illegal.

15 Q. And that's the training that you referred  
16 to earlier that officers review before they go to the  
17 --

18 A. The FOBTC, which is the FDNS officer basic  
19 training and the officers -- the FDNS officers and  
20 the ISOs who go to the CARRP training have to take it  
21 also. That's the cultural awareness training.

22 Q. Okay. Aside from the cultural awareness

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1 training, are you aware of any other trainings that  
2 they're provided on anti-discrimination?

3 **A. I am not aware of other trainings.**

4 **MS. PASQUARELLA:** Counsel, for the record,  
5 I don't believe that the cultural awareness training  
6 has been produced to us, and I think it's plainly  
7 responsive to our discovery requests. So I would  
8 request that it be provided.

9 **MR. TARANTO:** If you could follow up with  
10 a specific letter or notice and direct us to the  
11 request that you think is the one that captures it,  
12 we will look into it.

13 **MS. PASQUARELLA:** I will follow up by  
14 email with you, if that's okay?

15 **MR. TARANTO:** Okay.

16 **BY MS. PASQUARELLA:**

17 **Q.** Relatedly, are you aware of any trainings  
18 provided to FDNS officers that address racial  
19 profiling?

20 **A.** I'm not aware of specific training.  
21 However, the instructors for the training are  
22 frequently reminded that -- not to -- to be

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1 professional and to be on the lookout for any  
2 discussions that come up in the class that may lead  
3 someone to believe that discriminatory practices are  
4 endorsed anywhere in the agency.

5 So our -- our -- both our permanent  
6 training staff and instructors who come in to train  
7 temporarily are reminded of that fact and told to be  
8 on the lookout if anything in the classes seemed to  
9 be in any way able to be inferred by students that  
10 CIS -- anyone in CIS is endorsing doing something  
11 other than what is legal.

12 Q. And are you aware of that being at all  
13 part of any of the trainings that are given to  
14 officers to prevent racial profiling?

15 A. So as far as -- other than what was in the  
16 -- what is -- the cultural awareness training touches  
17 on that. Other than that, I'm not aware of other  
18 specific formal -- formal training.

19 Q. Okay. And then would your answer be the  
20 same with respect to religious profiling?

21 A. That is -- that is included, again --  
22 that's included in the cultural awareness training.

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1 But other than that, I am not aware of other  
2 training.

3 Q. And are you aware of any training that's  
4 provided to FDNS officers about religious practices?

5 A. That would be the same answer. That's --  
6 that's described in the cultural awareness training.

7 Q. And how about cultural practices?

8 A. Cultural practices as well.

9 Q. And any specific training about Islam? Is  
10 that the same answer?

11 A. I'm not aware of any specific training on  
12 Islam that officers receive.

13 Q. Are there trainings provided to officers  
14 about specific country conditions?

15 A. Not that I'm aware of.

16 Q. To take one issue in particular, are there  
17 trainings provided to officers about military and  
18 paramilitary organizations in particular countries?

19 A. Not that I'm aware of.

20 Q. And how about any trainings with respect  
21 to specific country obligations to -- with respect to  
22 military conscription?

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1           **A.**     **Not that would -- not that I'm aware of.**

2           **Q.**     **Am I correct that military training is one**  
3 **of the indicators for a national security concern**  
4 **under CARRP?**

5           **A.**     **It is a possible national security**  
6 **indicator in conjunction with other factors.**

7           **Q.**     **Okay. So could a member of the U.S.**  
8 **Armed Forces who applies for immigration benefit be**  
9 **subject to CARRP based on their military training?**

10          **A.**     **I can't answer. There would be other**  
11 **facts of the case that would relate to that. I can't**  
12 **answer without knowing the --**

13          **Q.**     **Are you aware of any cases where a member**  
14 **of the U.S. Armed Forces was subject to CARRP?**

15          **A.**     **I am not.**

16          **Q.**     **And is your answer true not just with**  
17 **respect to a particular case, but in general, have**  
18 **you -- are you not aware of whether or not a member**  
19 **of the U.S. Armed Forces -- whether any person has**  
20 **been subject to CARRP who was a member of the U.S.**  
21 **Armed Forces?**

22          **A.**     **I don't know.**

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1 Q. You don't know or you're not aware?

2 MR. TARANTO: Object to the form as vague.

3 BY MS. PASQUARELLA:

4 Q. So the question was are you aware of  
5 whether or not a member of the U.S. Armed Forces has  
6 ever been subject to CARRP?

7 A. I'm not aware.

8 Q. Has USCIS made any efforts in its  
9 trainings to ensure that officers are not equating  
10 religious practices with national security concerns?

11 A. I can't speak for -- there's training  
12 that's conducted within CIS that's not under my  
13 purview, so I cannot speak to that.

14 As far as specific FDNS training, I'm not  
15 aware of -- of training that's conducted under -- by  
16 FDNS. I'm not aware of that.

17 MS. PASQUARELLA: Okay. I want to take a  
18 look at another exhibit. Exhibit No. 41.

19 (Exhibit 41 was marked for  
20 identification and was attached to the deposition.)

21 BY MS. PASQUARELLA:

22 Q. So this is Exhibit 41. Are you familiar

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1 ACKNOWLEDGMENT OF DEPONENT

2

3 I, MATTHEW D. EMRICH, do hereby  
4 acknowledge that I have read and examined the  
5 foregoing testimony, and the same is a true, correct  
6 and complete transcription of the testimony given by  
7 me, and any corrections appear on the attached Errata  
8 Sheet signed by me.

9

10 2/21/2020



11 (DATE)

(SIGNATURE)

12

13 NOTARIZATION (If Required)

14 State of \_\_\_\_\_

15 County of \_\_\_\_\_

16 Subscribed and sworn to (or affirmed) before me on  
17 this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
18 \_\_\_\_\_, proved to me on the  
19 basis of satisfactory evidence to be the person who  
20 appeared before me.

21 Signature: \_\_\_\_\_

22 (Seal)

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1 UNITED STATES OF AMERICA)

2 ss:

3 DISTRICT OF COLUMBIA )

4 I, SHERRY L. BROOKS, a Notary Public  
5 within and for the District of Columbia, do hereby  
6 certify that the witness whose deposition is  
7 hereinbefore set forth was duly sworn and that the  
8 within transcript is a true record of the testimony  
9 given by such witness.

10 I further certify that I am not related to  
11 any of the parties to this action by blood or  
12 marriage and that I am in no way interested in the  
13 outcome of this matter.

14 IN WITNESS WHEREOF, I have hereunto set my  
15 hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

16

17

18

\_\_\_\_\_

19

Notary Public in and for

20

the District of Columbia

21 My Commission Expires:

22 November 14, 2020