

# EXHIBIT 68

~~FILED UNDER SEAL~~

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

- - -

ABDIQAFAR WAGAFE, et : NO.  
al, :  
 : 2:17-cv-00094-  
Plaintiffs, : RAJ  
 :  
v. : CONFIDENTIAL  
 :  
DONALD TRUMP, President :  
of the United States, :  
et al., :  
 :  
Defendants. :

- - -  
Friday, October 30, 2020  
- - -

WebEx videotaped deposition of  
BERNARD SISKIN, Ph.D., pursuant to  
notice, was held beginning at 10:09 AM,  
on the above date, taken stenographically  
before Constance S. Kent, a Certified  
Court Reporter, Registered Professional  
Reporter and Notary Public.

\* \* \*

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10 Jacob Uscinowicz, Video Specialist

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I N D E X

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Testimony of: BERNARD SISKIN, Ph.D.		
By Mr. Handeyside		7
By Mr. Taranto		425
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E X H I B I T S

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NO.	DESCRIPTION	PAGE
Exhibit Siskin-1	Supplemental Expert Report of Sean M. Kruskol	96
Exhibit Siskin-2	Amended Report by Bernard R. Siskin, Ph.D., dated 7/17/20	97
Exhibit Siskin-3	Document Label External Vetting, Bates DEF-429774 through 429777	120
Exhibit Siskin-4	Responsive Report by Bernard R. Siskin, Ph.D., dated 10/13/20	353

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2 DEPOSITION SUPPORT INDEX

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4

5 Direction to Witness Not to Answer

6 Page Line Page Line Page Line

7 None

8

9

10 Request for Production of Documents

11 Page Line Page Line Page Line

12 None

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14

15 Stipulations

16 Page Line Page Line Page Line

17 None

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20 Question Marked

21 Page Line Page Line Page Line

22 None

23

24 THE VIDEOGRAPHER: Good

1 morning. We are now the record.

2 This begins Videotape No. 1  
3 in the deposition of Dr. Bernard  
4 Siskin in the matter of Abdiqafar  
5 Wagafe v. Donald Trump, President  
6 of the United States, et al.

7 Today is Friday,  
8 October 30th, 2020, and the time  
9 is now approximately 10:09 AM  
10 eastern time.

11 This deposition is being  
12 taken at WebEx virtual location.

13 The videographer is Jacob  
14 Uscinowicz of Magna Legal  
15 Services, and the court reporter  
16 is Constance S. Kent of Magna  
17 Legal Services.

18 Will counsel and all parties  
19 present state their appearances  
20 and whom they represent.

21 MR. HANDEYSIDE: Hugh  
22 Handeyside, American Civil  
23 Liberties Union on behalf of the  
24 plaintiff.

1 MR. TARANTO: Leon Taranto,  
2 Department of Justice, Civil  
3 Division, on behalf of the  
4 defendants.

5 MR. HOGLE: And this is  
6 Charlie Hogle, American Civil  
7 Liberties Union on behalf of  
8 plaintiffs.

9 MS. BRAGA: Victoria Braga,  
10 Department of Justice, on behalf  
11 of defendants.

12 THE VIDEOGRAPHER: Will the  
13 court reporter please swear in the  
14 witness.

15 BERNARD SISKIN, having been  
16 first duly sworn, was examined and  
17 testified as follows:

18 - - -

19 E X A M I N A T I O N

20 - - -

21 BY MR. HANDEYSIDE:

22 Q. Good morning, Dr. Siskin.

23 My name is Hugh Handeyside.

24 A. Good morning.



1 at issue in this case.

2 So my distinction with him  
3 was that -- was generally that in -- in  
4 what the meaning or the completeness of  
5 the data that he presents and what it  
6 implies for the conclusions.

7 Q. Okay. I think just to start  
8 then I'd like to focus on whether  
9 Mr. Kruskol's conclusions are correct in  
10 that specific sense that you mentioned,  
11 the arithmetic -- the mathematical sense.

12 Does that work for you for a  
13 moment?

14 A. Sure. I think I testified  
15 in my report that basically the  
16 arithmetic that he had when we -- when I  
17 did it would be the same. There were  
18 some minor differences when we do  
19 classification of Muslim countries being  
20 predominantly Muslim, population being at  
21 least 50 percent Muslim, but they were  
22 trivial and not -- not meaningful in  
23 terms of any conclusions.

24 MR. HANDEYSIDE: Okay. So

1 makes the conclusions, but the  
2 conclusions clearly are clear that I made  
3 and were consistent is that to those  
4 sent -- those processed through CARRP it  
5 will take longer. For those processed --

6 Q. I didn't mean to cut you  
7 off. For those processed through CARRP  
8 it will take longer?

9 A. For those processed,  
10 referred to CARRP, they're more likely to  
11 be denied than those not processed --  
12 those not referred to CARRP.

13 Q. Okay. Understood.

14 All right. So then for  
15 paragraph 7B, he states that:

16 "For applications received  
17 between October 1st, 2012, and  
18 September 30th, 2019, USCIS denied  
19 applications subject to CARRP at  
20 two-and-a-half times the rate of  
21 applications not subject to  
22 CARRP."

23 And sort of the same thing,  
24 is that statement true as a mathematical

1           disparate impact on the likelihood  
2           that an application will be  
3           referred to CARRP. It does not  
4           have a disparate impact on  
5           outcomes of individuals in CARRP.

6                   So the impact of being in  
7           CARRP, that, i.e., CARRP takes  
8           longer to process, once you're  
9           referred to CARRP, it's going --  
10          you're -- it's going to take  
11          longer, you're more likely to be  
12          pending at any point in time,  
13          you're -- when you're adjudicated,  
14          it's more likely to have taken  
15          long, and if you're in CARRP --  
16          referred to CARRP, you're more  
17          likely to be -- to be denied  
18          independent of whether you're  
19          Muslim or non-Muslim winds up  
20          having an impact on people who  
21          were born in countries which were  
22          predominantly Muslim.

23                   So you've got to be careful  
24          when you say a disparate impact.

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CERTIFICATE

I HEREBY CERTIFY that the witness was duly sworn by me and that the within deposition is a true and accurate transcript of the stenographic notes of the testimony given by the witness.

*Constance S. Kent*



Constance S. Kent, CCR, RPR, CLR  
Certified Court Reporter  
Registered Professional Reporter  
Certified LiveNote Reporter  
and Notary Public  
Dated: November 10, 2020

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)



1 ACKNOWLEDGMENT OF DEPONENT

2 I, Bernard Siskin, do  
3 hereby certify that I have read the  
4 foregoing pages, 1 - PGS, and that the  
5 same is a correct transcription of the  
6 answers given by me to the questions  
7 therein propounded, except for the  
8 corrections or changes in form or  
9 substance, if any, noted in the attached  
10 Errata Sheet.

11 Bernard Siskin 12/9/2020  
12 WITNESS NAME DATE

13 Subscribed and sworn  
14 to before me this  
15 9th day of December, 2020.  
16 My commission expires: May 10, 2023

17 Eric Siskin  
18 Notary Public

