

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ABDIQAFAR WAGAFE, *et al.*, on behalf
of themselves and others similarly situated,

Plaintiffs,

v.

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

Defendants.

No. 2:17-cv-00094-RAJ

**DECLARATION OF HEATH HYATT IN
SUPPORT OF PLAINTIFFS’
OPPOSITION TO DEFENDANTS’
MOTION TO EXCLUDE TESTIMONY
OF JAY GAIRSON, THOMAS
RAGLAND, AND NERMEEN ARASTU**

**FILED UNDER SEAL:
EXHIBITS A, B, C, E**

I, Heath L. Hyatt, hereby declare:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same. I am one of the attorneys for Plaintiffs in this matter, *Wagafe v. Biden*, No. 17-cv-00094 RAJ.

2. Attached as **Exhibit A** is a true and correct copy of the Expert Report of Jay Gairson, served on July 1, 2020.

3. Attached as **Exhibit B** is a true and correct copy of the Expert Report of Thomas Ragland, served on July 1, 2020.

4. Attached as **Exhibit C** is a true and correct copy of the Expert Report of Nermeen Arastu, served on July 1, 2020.

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Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

EXHIBIT A
FILED UNDER SEAL

EXHIBIT B
FILED UNDER SEAL

EXHIBIT C
FILED UNDER SEAL

EXHIBIT D

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

-----x
ABDIQAFAR WAGAFE, ET AL., On behalf of himself
and others similarly situated,
Plaintiffs,

Index No.:
2:17-CV-00094-RAJ

-against-

DONALD TRUMP, President of the United States,
et al.,

Defendants.

-----x
VIDEO-CONFERENCED VIDEOTAPED DEPOSITION
Conducted Via Webex

DATE: September 9th, 2020

-----x
AMBRIA IANAZZI, RPR

JOB#: 630464

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CONFIDENTIAL Videotaped

video-conferenced deposition of NERMEEN ARASTU,
taken pursuant to Notice, was held via Webex,
commencing September 9th, 2020, at 9:13 a.m.,
before AMBRIA IANAZZI, a Registered
Professional Reporter and Notary Public in and
for the State of New York.

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I N D E X

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MARKED FOR IDENTIFICATION

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A P P E A R A N C E S:

AMERICAN CIVIL LIBERTIES UNION

Attorneys for Plaintiffs

125 Broad Street, 18th Floor

New York, New York 10004

BY: SAMEER AHMED, ESQ.

MICHELLE MINJU CHO, ESQ.

DEPARTMENT OF JUSTICE OFFICE OF
IMMIGRATION LITIGATION

Attorneys for Defendants

450 5th Street, Room 2031

Washington D.C., 20530

BY: MICHELLE SLACK, ESQ.

JESSE BUSEN, ESQ.

ALSO PRESENT:

JESSICA SCHAUNELSON, ESQ., USCIS, DHS

TYLER CROTTY, Videographer, Magna Legal
Services

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THE VIDEOGRAPHER: Please
standby. We are now on the
record. This begins the video
deposition of Nermeen Arastu in
the matters of Wagafe v. Donald
Trump, President of the United
States, et al., filed in the
United States District Court to
the Western District of Washington
at Seattle.

Today is Wednesday
September 9th, 2020, and the time
is, approximately, 9:13 a.m. This
deposition is being taken
remotely. The videographer is
Tyler Crotty of Magna Legal
Services, and the court reporter
is Ambria Ianazzi, also of Magna
Legal Services.

Counsel, at this time, I
ask if you could please state your
appearances and whom you
represent, for the record.

MR. AHMED: Sameer Ahmed on

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2 behalf of the Plaintiffs.

3 MS. CHO: Michelle Minju
4 Cho, on behalf of the Plaintiffs.

5 MS. SLACK: Michelle Slack,
6 Department of Justice, on behalf
7 of the Defendants.

8 MR. BUSEN: Jesse Busen,
9 Department of Justice on behalf of
10 the Defendants.

11 THE VIDEOGRAPHER: Is that
12 everyone, Counsel?

13 MS. SLACK: I believe so.

14 THE VIDEOGRAPHER: Will the
15 court reporter now swear in the
16 Witness?

17 THE COURT REPORTER: Raise
18 your right hand, please.

19 THE WITNESS:
20 (Witness complies.)

21 THE COURT REPORTER: Do you
22 swear that your testimony today
23 will be the truth, the whole truth
24 and nothing but the truth, so help
25 you God?

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THE WITNESS: I do.

THE COURT REPORTER: Okay.

You're under oath. You can put
your hand down now.

THE WITNESS: (Complies.)

- o o -

NERMEEN ARASTU,
NERMEEN ARASTU herein, after having been first
duly sworn by a Notary Public of the State of
New York, was examined and
testified as follows:

- o o -

THE VIDEOGRAPHER: Counsel,
you could proceed.

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2 EXAMINATION BY 09:14

3 MS. SLACK: 09:14

4 Q. Good morning, Professor 09:14

5 Arastu. My name is Michelle Slack. 09:14

6 I'm with the Department of Justice, 09:15

7 and I represent the Defendants in 09:15

8 this case. I have a few 09:15

9 preliminaries I would like to start 09:15

10 with. 09:15

11 MS. SLACK: Tyler, can you 09:15

12 pull up Document A? 09:15

13 THE VIDEOGRAPHER: 09:15

14 (Demonstrating.) 09:15

15 MS. SLACK: And Document A, 09:15

16 I'm going to have marked as 09:15

17 Exhibit 23. 09:15

18 -o0o- 09:15

19 (Whereupon, Exhibit 23 09:15

20 was marked for 09:15

21 identification, as of 09:15

22 September 9th, 2020.) 09:15

23 -o0o- 09:15

24

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2 BY MS. SLACK 13:22

3 Q. Okay. Good afternoon, 13:23

4 Professor Arastu. I'd like to now 13:23

5 turn to some questions about your, 13:23

6 "Aspiring Americans" Article, 13:23

7 "Thrown Out in the Cold," and I 13:23

8 would like to start with what 13:23

9 inspired you to research and write 13:23

10 this Article? 13:23

11 MR. AHMED: Objection, 13:23

12 vague. 13:23

13 A. My observations 13:23

14 representing immigrants through 13:23

15 naturalization processes. 13:23

16 Q. And what about those 13:23

17 observations did you -- what were 13:23

18 you inspired by? 13:23

19 MR. AHMED: Objection, 13:23

20 vague. 13:23

21 A. Seeing differences 13:23

22 between how -- and how long it took 13:24

23 for some to receive naturalization 13:24

24 as compared to others and looking 13:24

25 for answers as to why that may be 13:24

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2 happening. 13:24

3 Q. Differences in how long 13:24

4 it took for what group of people. 13:24

5 MR. AHMED: Objection, 13:24

6 vague. 13:24

7 A. Observing that -- for my 13:24

8 clients who seemed to come from a 13:24

9 Muslim heritage, or identify as a 13:24

10 Muslim, or who came from Muslim 13:24

11 countries, this pattern of delays 13:24

12 and denials in their naturalization 13:24

13 applicants -- applications and 13:24

14 oftentimes in other types of 13:24

15 applications as well as compared to 13:24

16 my clients who did not share that 13:24

17 background. 13:25

18 Q. And when did you -- 13:25

19 withdrawn. 13:25

20 When did you decide to 13:25

21 begin writing -- researching and 13:25

22 writing the, "Aspiring Americans," 13:25

23 Article? 13:25

24 MR. AHMED: Objection, 13:25

25 compound. Objection, vague. 13:25

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2 vague. 13:35

3 A. I mean, as I said before, 13:35

4 I can't recall precisely. My guess 13:35

5 -- my best guess and my recollection 13:35

6 right now is that those were the 13:35

7 specific allegations that were 13:35

8 coming up in the cases that I was 13:35

9 working on at the time that I found 13:35

10 very curious, you know, like why is 13:35

11 false testimony being alleged -- 13:35

12 alleged in this case when I never 13:35

13 seen that term come up in, for 13:35

14 example, in other types of cases -- 13:35

15 in other -- for other naturalization 13:35

16 applications. 13:35

17 Q. And by other 13:35

18 naturalization applications what do 13:35

19 you mean? 13:35

20 A. So, just to be clear, 13:36

21 basically, seeing a difference in 13:36

22 how false testimony allegations were 13:36

23 coming up in where the applicants 13:36

24 may have had Muslim heritage, or 13:36

25 come from a Muslim majority nation, 13:36

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2 but was not seeing those types of 13:36

3 allegations with any type of 13:36

4 frequency where cases were not 13:36

5 coming from applicant -- were not 13:36

6 from -- where applicants were not 13:36

7 from Muslim majority countries or 13:36

8 didn't have Muslim -- yeah. 13:36

9 Q. And when you say coming 13:36

10 up more frequently for applicants, 13:36

11 Muslim majority countries, or I 13:36

12 think you also include people from 13:36

13 countries with a large Muslim 13:36

14 population, and then finally persons 13:36

15 with names that would suggest a 13:36

16 Muslim heritage; is that a fairly 13:37

17 accurate description of the 13:37

18 categories that -- of people that 13:37

19 you saw coming up more frequently 13:37

20 with; is that correct? 13:37

21 MR. AHMED: Objection, 13:37

22 compound. Objection, vague. 13:37

23 A. In terms of the 13:37

24 categories now? Are you talking 13:37

25 about the specific categories of 13:37

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C E R T I F I C A T E

I, AMBRIA IANAZZI, a Registered Professional Reporter and Notary Public in and for the State of New York, do hereby certify: That NERMEEN ARASTU whose examination is hereinbefore set forth, was duly sworn, remotely, via Webex, appeared by way of video conference, and that such examination is a true record of the testimony given by NERMEEN ARASTU.

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

In witness whereof, I have hereunto set my hand this 9th day of September, 2020.

AMBRIA IANAZZI, RPR

EXHIBIT E
FILED UNDER SEAL