THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

Plaintiffs,

v.

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

Defendants.

No. 2:17-cv-00094-RAJ

PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS

NOTE ON MOTION CALENDAR: OCTOBER 13, 2017

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I. INTRODUCTION

Plaintiffs served Defendants with discovery requests two months ago. In response, Defendants served a series of general and specific objections riddled with legal errors and proposed an unreasonable and lengthy six-month timeline for production. In this motion, Plaintiffs address four discrete issues with Defendants' responses.[1] First, the Court should compel Defendants to produce a list of class members, other documents sufficient to identify class members, and documents regarding why Named Plaintiffs have been subject to CARRP. Although this Court has certified two nationwide classes whose membership is defined through application of a secret vetting program of which class members themselves never receive notice, Defendants improperly refuse to provide the list of class members. Second, the Court should compel Defendants to review classified documents for responsiveness and produce a log for any such documents they seek to withhold. Third, the Court should order Defendants to produce documents relating to the First and Second Executive Orders, which institute "extreme vetting" procedures that promise to expand CARRP. Despite the Court's denial of Defendants' motion to dismiss claims related to the Orders, Defendants have elected not to search for or produce responsive documents relating to those claims. And finally, the Court should make clear that Defendants cannot artificially limit their production to documents of "national applicability."

II. RELEVANT PROCEDURAL BACKGROUND

This lawsuit challenges the legality of the Controlled Application Review and Resolution Program ("CARRP"), an agency-wide policy created by Defendant U.S. Citizenship and Immigration Services in 2008, Dkt. 47 ¶ 55, and "extreme vetting" programs instituted in Executive Orders 13769, 82 Fed. Reg. 8977 ("First EO"), and 13780, 82 Fed. Reg. 13209 ("Second EO") *id.* ¶¶ 18, 138-141. Plaintiffs allege that CARRP implements an extra-statutory

[1] The negotiation process is ongoing with respect to several others of Plaintiffs' concerns, including fundamental issues related to the burden, scope, and timeliness of Defendants' productions. Declaration of David A. Perez in Support of Plaintiffs' Motion to Compel Production of Documents ("Perez Decl.") Exs. C, D. Should these negotiations prove unsuccessful, Plaintiffs may need to again seek the Court's assistance.

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internal vetting policy that discriminates on the basis of religion or national origin to indefinitely delay or pretextually deny statutorily-qualified immigration benefit applicants. *Id.* ¶¶ 35-51, 62-76. The Court certified two nationwide classes of individuals subject to CARRP or a successor "extreme vetting" program: one made up of individuals who have applied for adjustment of status ("Adjustment Class"), and the other of individuals who have applied for naturalization. ("Naturalization Class"). Dkt. 69 at 31.

Subsequently, Plaintiffs served a first set of 39 requests for production ("RFPs"). Defendants served their objections and responses on September 5, 2017. Perez Decl. Ex. A (Defendants' Objections and Responses to Plaintiffs' First Request for Production of Documents) ("Defendants' Responses"). Plaintiffs promptly wrote to Defendants, setting out a wide array of concerns with Defendants' Responses and requesting a time to meet and confer on the issues. *Id.* Ex. B (September 11, 2017 letter from Nick Gellert to counsel for Defendants). During the three-hour meet and confer conference, the parties discussed each of the concerns Plaintiffs had identified in their letter and attempted to resolve their differences. *Id.* ¶¶ 5-6. Though the parties made progress on some of Plaintiffs' concerns, and are continuing negotiations with respect to several others, the parties agreed they were at an impasse on four important issues, which are the subject of this motion. *Id.* ¶¶ 7-12.

III. LEGAL STANDARD

The Federal Rules of Civil Procedure authorize broad discovery "regarding any non-privileged matter that is relevant to any party's claim or defense." FED. R. CIV. P. 26(b)(1); *see Broyles v. Convergent Outsourcing, Inc.*, No. C16-775-RAJ, 2017 WL 2256773, at *1 (W.D. Wash. May 23, 2017) ("Most importantly, the scope of discovery is broad."). Moreover, relevance is assessed independently of the Federal Rules of Evidence—material "need not be admissible in evidence to be discoverable." FED. R. CIV. P. 26(b)(1).

The Federal Rules authorize motions to compel production to remedy an opposing party's evasive or incomplete answers or disclosures. FED. R. CIV. P. 37(a)(1), (3)–(4). Under the

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"liberal discovery principles" codified in the Federal Rules, a party opposing discovery "carr[ies] a heavy burden of showing why discovery was denied." *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975). The party seeking to compel discovery need only show that its request complies with the broad relevancy requirements of Rule 26(b)(1) to place this heavy burden on the opposing party. *Colaco v. ASIC Advantage Simplified Pension Plan*, 301 F.R.D. 431, 434 (N.D. Cal. 2014).

IV. ARGUMENT

A. Defendants Must Identify Class Members

Defendants' refusal to produce requested documents sufficient to identify class members, including a list of class members, as well as documents related to the reasons why Named Plaintiffs' applications were subject to CARRP, is improper. Perez Decl., Ex. A at 32, 34-39, 48-51 (RFP Nos. 13, 15, 17, 19, 21, 34, 35).

Defendants have made broad and unspecified assertions of privilege over class members' names and A-numbers, *id.* at 48-51 (RFP Nos. 34-35), and have asserted similar privilege concerns to prevent disclosure of whether Named Plaintiffs were subject to CARRP, *id.* at 32, 34-39 (RFP Nos. 13, 15, 17, 19, 21). But courts must reject such "blanket refusals inserted into a response to a Rule 34 request for production of documents" as "insufficient to assert a privilege." *See Burlington N. & Santa Fe Ry. Co. v. U.S. Dist. Court for Dist. of Mont.*, 408 F.3d 1142, 1149 (9th Cir. 2005); *see also United States v. Ruehle*, 583 F.3d 600, 609 (9th Cir. 2009) (noting that "blanket claims of privilege are generally disfavored") (citations omitted).[2]

To the extent Defendants claim that the law enforcement investigatory privilege bars identification of individuals subject to CARRP or the reasons why the Named Plaintiffs were subjected to CARRP, they have failed to meet their burden. *See, e.g.*, *United States ex rel. Burroughs v. DeNardi Corp.*, 167 F.R.D. 680, 687 (S.D. Cal. 1996) (outlining strict requirements

[2] Defendants also refuse to produce any privilege log for these documents, contrary to their obligations under the Federal Rules of Civil Procedure. *See infra* at IV.B (discussing privilege log requirements).

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for asserting law enforcement privilege).[3] Even if Defendants had properly asserted the privilege, it is not absolute. *Kerr v. United States Dist. Court for N. Dist.*, 511 F.2d 192, 198 (9th Cir. 1975). Where, as here, the requested documents "are 'both relevant and essential' to the presentation of the case on the merits, 'the need for disclosure outweighs the need for secrecy,' and the privilege is overcome." *See Hemstreet v. Duncan*, No. CV-07-732, 2007 WL 4287602, at *2 (D. Or. Dec. 4, 2007) (quoting *In re Search of Premises Known as 1182 Nassau Averill Park Rd.*, 203 F. Supp. 2d 139, 140 (N.D.N.Y. 2002)); *Mueller v. Walker*, 124 F.R.D. 654, 656-57 (D. Or. 1989).

In other contexts, even Defendants do not treat the identification of CARRP cases or the reasons why an individual was subjected to CARRP as privileged, including in responses to Freedom of Information Act requests and litigation. *See, e.g.*, Dkt. 27-1, Ex. E (document, obtained through FOIA, indicating Plaintiff Wagafe's file was reviewed by a CARRP officer); Declaration of Stacy Tolchin in Support of Plaintiffs' Motion to Compel Production of Documents, Exs. 1, 2 (documents, obtained through FOIA, indicating CARRP officers involved in naturalization and adjustment of status applications); Perez Decl. Ex. E at 276:15-17 (in deposition, USCIS officer confirming that plaintiff's case was "a CARRP case"); *id.* at 277:3-9 (providing officer's understanding "of why [case] was designated a CARRP case"); *cf. id.*, Ex. F (providing for notice to individuals on the "No Fly List" of their status on the list). Thus, the Court should reject Defendants' assertion of privilege in RFPs 13, 15, 17, 19, 21, 34 and 35.[4]

Second, Defendants incorrectly assert that the identity of class members is not relevant to Plaintiffs' claims and defenses in this certified nationwide class action. *See* Perez Decl., Ex. A at 48-51 (RFP Nos. 34-35). But each individual identified is a potential witness or source of

[3] In Defendants' Responses, they assert an unspecified privilege, but indicated during the meet and confer that they referred to the law enforcement privilege. Perez Decl., ¶ 9.

[4] Because Defendants assert that privilege prevents disclosure of *whether* Named Plaintiffs are subject to CARRP, they do not address what privilege, if any, they believe applies to documents disclosing *why* Named Plaintiffs are subject to CARRP, as requested in RFP Nos. 13, 15, 17, 19 and 21. But, to the extent that they intended their blanket assertion of law enforcement privilege to cover such information, it is improper and insufficient for the reasons discussed *supra*.

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relevant information regarding, inter alia, delays, unwarranted denials, or other impacts of CARRP and successor extreme vetting programs.

Additionally, members of the Naturalization Class are witnesses and/or sources of relevant information regarding the government's failure to provide naturalization applicants any notice that they are subject to CARRP or explanation for their classification under CARRP. This is directly relevant to the Naturalization Class's procedural due process claim, which contends, inter alia, that individuals subjected to CARRP deserve the right to notice of and a meaningful explanation for their classification. *See* Dkt. 47 ¶ 263.

Moreover, now that the court has certified the classes, many individuals reach out to class counsel to inquire as to whether they are class members. Until Defendants produce a class list, Class Counsel is unable to appropriately advise potential class members whether their interests are represented in this lawsuit, or whether they face a separate issue causing delay that requires a separate legal analysis. In addition, in certifying classes of noncitizens, courts have often required Defendants to provide notice to class members in circumstances where "INS [now DHS] is uniquely positioned to ascertain class membership." *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999) (requiring Defendants to provide notice to class members). The requested documents also may be necessary should the Court eventually require notice pursuant to Federal Rule of Civil Procedure 23(c)(2)(A) or order class-wide relief. *Cf. Algee v. Nordstrom, Inc.*, No. C 11-301, 2012 WL 1575314, at *4 (N.D. Cal. May 3, 2012) ("The disclosure of names, addresses, and telephone numbers is a common practice in the class action context.").

Thus, the requested documents are relevant pursuant to the broad scope of discovery, especially given that Named Plaintiffs and class members otherwise have no access to this information. *See, e.g.*, FED. R. CIV. P. 26(b)(1) (requiring consideration of, among other factors, "the parties' relative access to relevant information"). Nor would a response be overly burdensome, as applicants for adjustment of status and naturalization are not subject to CARRP

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unless Defendants first identify them as such, making that information readily available. The Court should order Defendants to produce documents responsive to RFP Nos. 34 and 35.

B. Defendants Must Log Responsive Classified Documents

Defendants have taken the position that they will not search any documents that have been marked classified, much less list any such responsive documents in a privilege log or produce them. Perez Decl. ¶ 10. Thus, Defendants have unilaterally decided—before reviewing such documents for responsiveness—that they will not produce any classified documents in this case because they are all privileged. But purported classification is not in itself a basis for circumventing Defendants' discovery obligations. *See, e.g.*, *Salim v. Mitchell*, No. CV-15-0286-JLQ, Dkt. No. 75 (E.D. Wash. Mar. 8, 2017) (government reviewed classified materials, deemed some no longer classified, disclosed documents in full or in redacted form, and produced a privilege log identifying objections on a document-by-document basis). By refusing even to search documents the executive branch has deemed classified, Defendants are conflating classification and privilege, and failing to determine (1) whether any such information is still properly classified; (2) whether unclassified information may be segregated and produced to Plaintiffs; and (3) whether classified information may be produced in summary and/or redacted form. If accepted, Defendants' position would also preclude Plaintiffs from effectively arguing, and the Court from adjudicating, whether classified information nevertheless must be produced because vindication of Plaintiffs' constitutional rights requires it.[5]

[5] In their September 22, 2017 letter, Defendants tried to clarify their position by saying "there are no classified documents relating to CARRP on a programmatic level," and that therefore they would only search "programmatic level" documents. *See* Perez Decl., Ex. C. But the scope of discovery is not limited to "programmatic" documents. To the extent Defendants have documents responsive to Plaintiffs' discovery requests which fall outside their narrow category of programmatic documents, Defendants refuse to search for or produce them. In addition, Defendants made clear in the parties' telephonic meet and confer conference that their claim that some non-programmatic documents could be classified was speculative. They did not actually know at that point in time if any responsive documents were in fact classified–only that, to the extent there are classified documents, they refuse to search them for responsive documents, produce any non-privileged information, and catalogue privileged information in a privilege log. *See id.* ¶ 10.

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It is well-established that an entity that withholds discovery materials based on a privilege must provide sufficient information (i.e., a privilege log) to enable the requesting party to evaluate the applicability of the privilege or other protection. FED. R. CIV. P. 26(b)(5); *see Clarke v. Am. Commerce Nat'l Bank*, 974 F.2d 127, 129 (9th Cir. 1992). Failure to provide sufficient information may constitute a waiver of the privilege. *See Peat, Marwick, Mitchell & Co. v. West*, 748 F.2d 540, 542 (10th Cir. 1984) (privilege waived when defendant did not make a timely and sufficient showing that the documents were protected by privilege). Asserting a "blanket objection" to document requests is insufficient and improper. *Clarke*, 974 F.2d at 129 (blanket assertions of privilege are "extremely disfavored"); *Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981) (blanket privilege objection is improper); *Eureka Fin. Corp. v. Hartford Accident & Indem. Co.*, 136 F.R.D. 179, 182-83 (E.D. Cal. 1991) (a "blanket objection" to each document on the ground of privilege with no further description is clearly insufficient). Defendants are obligated to review any classified documents and properly determine—and invoke for adjudication—which, if any, privilege they believe applies.

At a threshold level, then, although Defendants have asserted that responsive documents previously labeled classified may exist, they have not reviewed these documents to determine whether they are *still* classified. Nor do Defendants intend to produce a log identifying each document they are withholding on the basis that it is classified. Perez Decl. ¶ 10. Thus, Defendants have not shown that the purpose of whatever privilege they would attach to these documents is even implicated in this case. *See Clarke*, 974 F.2d at 129 (failure to show purpose of attorney/client privilege had been implicated). This Court should "not sustain an objection by [Defendants] on this ground as there is no showing that the privilege attaches to any of the requested documents. In the event that the privilege is later invoked as to any specific document, [Defendants] must provide [Plaintiffs] the requisite privilege log." *Northrop Grumman Corp. v. Factory Mut. Ins. Co.*, CV-058444-DDPPLAX, 2012 WL 12875772, at *9 (C.D. Cal. Aug. 29, 2012).

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Closely reviewing these documents and generating a privilege log is especially important if the government plans to assert that the state secrets privilege applies to any particular document or documents. In another similar context in which the government identified particular documents over which it claimed the privilege, litigation was able to progress so that the privileged information was not required to be produced. *Salim v. Mitchell*, No. CV-15-0286-JLQ, Dkt. No. 188 (E.D. Wash. May 31, 2017). That may well be possible here. Moreover, the Ninth Circuit has cautioned that the state secrets privilege "is not to be lightly invoked." *Al-Haramain Islamic Found., Inc. v. Bush*, 507 F.3d 1190, 1196 (9th Cir. 2007). Therefore, the privilege should be invoked, if at all, only with respect to a specific record, and it is well established that to assert the state secrets privilege, "[t]here must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after *actual personal consideration by the officer*." *United States v. Reynolds*, 345 U.S. 1, 7-8 (1953) (emphasis added). Blanket objections without individual review of *specific* documents do not suffice here. If the privilege is in fact invoked, Plaintiffs may object and the court must determine whether the privilege assertion is appropriate under the circumstances. *Id*. at 8. In short, even this exceptional privilege requires Defendants to review any responsive classified document.

Defendants must review these documents for responsiveness. If they are responsive, Defendants should determine whether they are still legitimately classified, and whether there are any alternatives to withholding the information entirely.[6] If Defendants seek to assert that any particular document is privileged, they must make a formal claim of privilege to facilitate the necessary judicial review of that determination.

C. Defendants Must Produce Documents Related to the First and Second Executive Orders

Defendants' outright refusal to produce documents related to the First and Second Executive Orders is improper because there is a recognized potential connection between

[6] Moreover, if a responsive document is classified, Plaintiffs' counsel may pursue the necessary security clearance to view classified materials.

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CARRP and the "extreme vetting" policies instituted by the First and Second EOs. Dkt. 47 ¶¶ 138-141; Dkt. 69 at14-15, 23-24. Accordingly, Defendants must produce documents related to the First and Second EOs, as requested in Plaintiffs' RFP Nos. 23 and 24.

The SAC challenges the legality of CARRP on several constitutional and statutory grounds. Dkt 47. Plaintiffs contend that CARRP applies extra-statutory, secret criteria to delay indefinitely, or deny on pretextual grounds, the applications of statutorily-qualified adjustment of status and naturalization applicants who are Muslim or hail from Muslim-majority countries. *See, e.g., id.* ¶¶ 7, 11, 76, 94-95. The First and Second EOs order the implementation of an "extreme vetting" regime that, upon information and belief, would dramatically expand CARRP as it currently exists. *See id.* ¶¶ 138-141.[7] Due to the secrecy of CARRP, Plaintiffs have no way of knowing whether and to what extent CARRP has shifted over time, including pursuant to these EOs. *See id.* ¶ 19 n.1. Thus, Plaintiffs' challenge to CARRP incorporates a challenge to any similar successor vetting policy that may exist. *Id.*

In their motion to dismiss, Defendants contended the claims "concerning 'extreme vetting'" under the Second EO should be dismissed. Dkt. 56 at 22. Defendants also challenged the inclusion of the EOs in their Response to Plaintiffs' First Amended Motion for Class Certification. Dkt. 60 at 7-8. The Court already rejected both challenges. Dkt. 69 at 15 & n.6, 23-24.

Following the Court's ruling, Plaintiffs sought targeted discovery regarding any consideration of CARRP in the promulgation of the First or Second EOs, as well as documents regarding the "extreme vetting" program the EOs promised. Specifically, Plaintiffs' Requests state:

[7] A recent Presidential Proclamation expanding the scope of the travel ban does not alter the "extreme vetting" provisions of the First and Second EOs. *Compare* Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorist or Other Public-Safety Threats, Sept. 24, 2017, https://www.whitehouse.gov/the-press-office/2017/09/24/enhancing-vetting-capabilities-and-processes-detecting-attempted-entry, *with* Second EO, sections 4, 5.

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> **REQUEST FOR PRODUCTION NO. 23:** All Documents referring or relating to any consideration of or reference to CARRP during the planning, drafting, or issuing of the First and Second EOs.
>
> **REQUEST FOR PRODUCTION NO. 24:** All Documents referring or relating to "extreme vetting" or any other screening, vetting, or adjudication program, policy, or procedure connected to the First or Second EOs. This request includes, but is not limited to, programs that reference, relate to, or expand upon CARRP.

Perez Decl. Ex. A at 40-42 (Defendants' Responses).

First, discovery related to the EOs is not, as Defendants contend, "premature in light of the oral argument scheduled before the Supreme Court on October 10, 2017, in *Trump v. Int'l Refugee Assistance Project*." *Id.* at 3. The issues before the Supreme Court are limited to the legality of the temporary suspension of the entry of non-citizens pursuant to Section 2(c) of the Second EO. *See Int'l Refugee Assistance Project v. Trump*, 857 F.3d 554, 572, 579 (4th Cir. 2017). Plaintiffs' Requests, in contrast, are aimed at Section 4 of the First EO and Sections 4 and 5 of the Second EO, which relate to the "extreme vetting" program to be promulgated thereunder that promises to expand or modify CARRP. Dkt. 47 ¶¶ 111, 138-141; Perez Decl. Ex. A at 40-42 (RFP Nos. 23-24).[8]

Second, discovery related to the First EO is not moot based on Defendants' contention that the Second EO rescinded and replaced the First EO. Perez Decl. Ex. A at 3, 40-41. Although any "extreme vetting" policy would currently be implemented pursuant to the Second EO, such a program may have been discussed, planned, or initially implemented pursuant to the First EO.

Third, discovery related to the EOs is not, as Defendants contend, categorically privileged pursuant to the deliberative process privilege. *Id.* Ex. A at 41; *id.* ¶ 11. As explained in IV.B, *supra*, Defendants cannot assert privilege on a categorical basis before searching for and

[8] Though the Supreme Court has since canceled the October 10 oral argument to permit supplemental briefing on the recent Presidential Proclamation, Plaintiffs' response to Defendants' objections remains is unchanged.

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reviewing potentially responsive documents. Indeed, Rule 26 requires parties to detail the nature and basis for withholding all otherwise responsive documents. FED. R. CIV. P. 26(b)(5)(A); *see Broyles*, 2017 WL 2256773 at *3 ("Under Rule 26, a party who withholds information as privileged must produce a privilege log."). Moreover, the deliberative process privilege would only potentially attach to the subset of responsive documents that are (1) "predecisional," meaning "prepared in order to assist an agency decisionmaker in arriving at his decision," and (2) "deliberative," meaning "disclosure of the materials would expose an agency's decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions." *Assembly of State of Cal. v. U.S. Dep't of Commerce*, 968 F.2d 916, 920 (9th Cir. 1992), *as amended on denial of reh'g* (Sept. 17, 1992) (quotations omitted). Defendants' contention that every document referencing or referring to CARRP in the planning, drafting or issuing of the First and Second EOs satisfies this narrow standard—without even reviewing the potentially responsive documents—strains credulity. Relatedly, production of documents directly from the President may be subject to heightened standards of relevancy, but the President—as a party to this case—is not automatically immune from all discovery. During the parties' meet and confer, Defendants admitted that though they believed the President's office would be the primary source of information related to the EOs, they had not asked the President's office about potentially responsive custodians or sources of non-custodial documents.[9] Perez Decl. ¶ 11. If Defendants argue that the President himself must be insulated from document production obligations, they must provide alternate custodians and non-custodial sources of information that will capture the documents Plaintiffs seek.

[9] Accordingly, it is unclear whether a litigation hold has been issued at the Executive Office of the President.

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D. Defendants Cannot Limit Production to Documents of "National Applicability"

Finally, Defendants' refusal to produce documents other than those of "national applicability" is improper. Defendants state that they will restrict the bulk of their production of responsive documents to those of "national applicability." *See* Perez Decl. Ex. A at 17-29, 40-43 (RFP Nos. 1, 3-10, 22, 24-25). Though this term is undefined in Defendants' Responses, the parties' meet and confer confirmed that Defendants intend to produce only national, policy-level documents related to CARRP because they interpret Plaintiffs' case to challenge the CARRP policy on a national and not individual level. *Id.* ¶ 12.

Defendants' claim is based on an incorrect understanding of Plaintiffs' challenge to the legality of CARRP. As outlined in Plaintiffs' SAC, CARRP is an agency-wide policy by which USCIS identifies immigration benefit applications that raise "national security concerns," and then processes and adjudicates those applications subject to extra-statutory rules and criteria that result in indefinite delay or pretextual denial of statutorily-qualified applicants. *See, e.g.*, Dkt. 47 ¶¶ 55, 60-61. The official CARRP policy imposes several criteria to determine whether an applicant is considered a "national security concern," which, in practice, "often turn on discriminatory factors such as religion or national origin." *Id.* ¶¶ 62, 76. Plaintiffs seek documents that will reveal not only what these criteria are, but how they are applied in a discriminatory manner. In addition to official policy documents, such evidence is likely to also appear in regional or individual communications about CARRP's application to specific categories of applications or people. Defendants' qualification that they will only produce documents of "national applicability" promises to conceal any discriminatory application of CARRP by local offices adjudicating applications for adjustment of status and naturalization and to prevent the judicial review that the Court has ordered must occur.

V. CONCLUSION

The Court should enter an order compelling Defendants to produce the categories of documents as outlined in this motion and the proposed order submitted herewith.

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DATED: September 28, 2017

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CERTIFICATE OF SERVICE

The undersigned certifies that on the dated indicated below, I caused service of the foregoing PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS via the CM/ECF system that will automatically send notice of such filing to all counsel of record herein.

DATED this 28th day of September, 2017, at Seattle, Washington.

By: s/*Laura K. Hennessey*

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