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UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

SONALI KOLHATKAR; MOURAD  
JELLABI; and MARIA STANWICK,  
individually and on behalf of all those  
similarly situated,

Plaintiffs,

vs.

MICHAEL B. FILIP, in his official capacity as  
Acting Attorney General of the United States;  
JANET NAPOLITANO, in her official  
capacity as Secretary of the U.S. Department  
of Homeland Security; MICHAEL AYLES, in  
his official capacity as Acting Director of U.S.  
Citizenship and Immigration Services; JANE  
ARELLANO, in her official capacity as Field  
Director of the Los Angeles District of U.S.  
Citizenship and Immigration Services; and  
ROBERT S. MUELLER, III, in his official  
capacity as Director of the Federal Bureau of  
Investigation,

Defendants.

**ORIGINAL**

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CASE NO. SACV07-1394  
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**THIRD AMENDED  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF-  
CLASS ACTION;  
PETITIONS FOR  
NATURALIZATION**

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## JURISDICTION AND VENUE

1. Petitioners/Plaintiffs ("Plaintiffs") are lawful permanent residents of the United States whose applications for naturalization have not been adjudicated in accordance with statutory deadlines because of government agencies' use of certain security checks that lack timelines for completion and are of questionable value. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 5 U.S.C. § 701 *et seq.* (Administrative Procedure Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act). This Court also has jurisdiction pursuant to 8 U.S.C. § 1447(b) (adjudication of applications for naturalization pending more than 120 days from the date of the naturalization examination). This Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 1361, 2202, and 5 U.S.C. § 702.

2. Venue is proper in the Central District of California pursuant to 28 U.S.C. § 1391(b) and § 1391(e). Respondents/Defendants ("Defendants") are officers or employees of agencies of the United States government who are sued in their official capacity for their acts under color of legal authority. Venue is also proper pursuant to 8 U.S.C. § 1447(b), which provides that petitions for review of naturalization applications shall be filed in the district in which the applicants reside.

## INTRODUCTION

3. Plaintiffs are lawful permanent residents of the United States who have lived in the United States for many years. Plaintiffs have submitted applications to naturalize as United States citizens to the United States Citizenship and Immigration Services ("CIS"). However, their naturalization applications have not been processed and adjudicated for over 300 days since the dates of submission because each of their applications is awaiting completion of an "FBI name check," which is a background check performed by the FBI using a person's name.

1           4.     Plaintiffs seek to pledge their allegiance to the United States and to  
2 participate fully in our society as United States citizens. Having qualified to do so  
3 after years of working in the United States and contributing to their communities,  
4 Plaintiffs seek only what the law provides, which is a final decision on their  
5 naturalization applications within the reasonable timelines required by law.

6           5.     Defendants, who are officers of CIS and the Federal Bureau of  
7 Investigation ("FBI"), the Secretary of the Department of Homeland Security, and  
8 the Attorney General of the United States, are responsible for the naturalization  
9 process. In November 2002, Defendants drastically altered the naturalization  
10 procedure by requiring a vastly expanded FBI name check to be conducted on every  
11 application even though it is not required by either statute or regulation.  
12 Implementation of this unwarranted and cumbersome new name check procedure  
13 has resulted in months-long and even years-long delays in naturalization  
14 adjudication for Plaintiffs and the proposed class.

15           6.     CIS's own Ombudsman has stated that the FBI name check used in  
16 naturalization applications is of questionable value in detecting persons who may  
17 pose a threat to security. Nevertheless, CIS uses the FBI name check without  
18 imposing any deadlines for completion. In requiring and conducting name checks,  
19 both CIS and the FBI have acted with complete disregard for Congress' plain  
20 directive that CIS should complete the processing of naturalization applications  
21 within six months from the date of submission. Through their use of FBI name  
22 checks, CIS and the FBI have unreasonably delayed the processing of the  
23 naturalization applications of Plaintiffs and the proposed class members, and CIS  
24 has unlawfully withheld final adjudication of these applications.

25           7.     Defendants' unlawful conduct has deprived Plaintiffs of the privileges  
26 of United States citizenship. Plaintiffs cannot vote, serve on juries, expeditiously  
27 sponsor their immediate relatives living abroad for permanent residence, receive  
28 business and education loans and benefits reserved for citizens, participate in the

1 Visa Waiver Program, or travel abroad and return to the U.S. without fear of  
 2 exclusion from this country. Plaintiffs' experiences are typical of tens of thousands  
 3 of other naturalization applicants around the country who have suffered  
 4 unreasonable and unlawful delays in the naturalization process because of pending  
 5 name checks.

6 8. Plaintiffs respectfully request, on behalf of themselves and all others  
 7 similarly situated, that the Court certify the proposed class, enter judgment in favor  
 8 of the proposed class on all claims, and grant the relief requested herein.  
 9 Specifically, Plaintiffs request that the Court require the Defendants to adjudicate  
 10 their applications for naturalization within the time periods prescribed by law, and  
 11 declare that the Defendants' actions violate the naturalization statute and  
 12 regulations, laws governing administrative agency action, and the Due Process  
 13 Clause of the Fifth Amendment.

## 14 PARTIES

### 15 Plaintiffs

16 9. Plaintiff Maria Stanwick is a citizen of Peru. She is a lawful  
 17 permanent resident of the United States, and she resides in Newport Beach,  
 18 California. She submitted her application for naturalization to CIS in March 2005,  
 19 and was granted a CIS priority date of March 22, 2005. Ms. Stanwick passed the  
 20 naturalization examination in September 2005, but CIS has yet to adjudicate her  
 21 naturalization application.  
 22

23 10. Plaintiff Mourad Jellabi is a citizen of Tunisia. He is a lawful  
 24 permanent resident of the United States, and he resides in Valley Village,  
 25 California. He submitted his application for naturalization to CIS in February 2006,  
 26 and was granted a CIS priority date of February 14, 2006. CIS has not yet  
 27 scheduled Mr. Jellabi's naturalization examination, nor adjudicated his  
 28 naturalization application.

11. Plaintiff Sonali Padmakar Kolhatkar was born in the United Arab Emirates and is a citizen of India. She is a lawful permanent resident of the United States, and she resides in Pasadena, California. She submitted her application for naturalization to CIS in February 2005, and was granted a CIS priority date of February 7, 2005. Ms. Kolhatkar passed the naturalization examination in August 2005, but CIS has yet to adjudicate her naturalization application. Plaintiffs' counsel moved to add Ms. Kolhatkar as a named plaintiff to this action in October 2008. Defendants' counsel informed plaintiffs' counsel in January 2009 that CIS is ready to adjudicate Ms. Kolhatkar's naturalization application.

### **Defendants**

12. Defendant Mark Filip is the Acting Attorney General of the United States and as such is the head of the United States Department of Justice ("DOJ") and the chief law enforcement officer of the federal government. The Attorney General has the authority to naturalize persons as citizens of the United States. 8 U.S.C. § 1421(a). The Attorney General is also ultimately responsible for the FBI, a subdivision of the DOJ. Mr. Filip is sued here in his official capacity.

13. Defendant Janet Napolitano is the Secretary of the Department of Homeland Security ("DHS"). As of March 1, 2003, DHS is the agency responsible for implementing the Immigration and Nationality Act ("INA"). Within DHS, CIS (formerly part of the Immigration and Naturalization Service ("INS")), is responsible for implementing the provisions of the INA under which lawful permanent residents are naturalized as United States citizens. Ms. Napolitano is sued here in her official capacity.

14. Defendant Michael Aytes is the Acting Director of CIS and as such is responsible for implementing the provisions of the INA under which lawful permanent residents are naturalized as United States citizens. He is sued here in his official capacity.

15. Defendant Jane Arellano is the Field Office Director of the Los

1 Angeles District of CIS. Pursuant to 8 C.F.R. § 310.2, Ms. Arellano has been  
 2 delegated authority to control all CIS activities within the Los Angeles District,  
 3 including the authority to adjudicate naturalization applications submitted in the  
 4 district. She is sued here in her official capacity.

5 16. Defendant Robert S. Mueller III is the Director of the FBI. The FBI is  
 6 an agency within the DOJ whose mission is to enforce criminal laws and defend the  
 7 United States against terrorist and foreign intelligence threats. Upon the request of  
 8 CIS, the FBI's National Name Check Program performs name checks of all  
 9 applicants for naturalization. Mr. Mueller is sued here in his official capacity.

## 11 LEGAL FRAMEWORK

### 12 Naturalization Procedure

13 17. Federal immigration law allows persons who have been residing in the  
 14 United States as lawful permanent residents to become United States citizens  
 15 through a process known as naturalization.

16 18. A person seeking to naturalize must meet certain requirements under  
 17 the INA, 8 U.S.C. § 1101 *et seq.*, including a sufficient period of physical presence  
 18 in the United States; good moral character; and an understanding of the English  
 19 language and the history and government of the United States. 8 U.S.C. §§ 1423,  
 20 1427(a).

21 19. A person seeking to naturalize must submit an application for  
 22 naturalization to CIS, along with a fee. 8 U.S.C. § 1445; 8 C.F.R. § 334.2.

23 20. CIS is the agency that is responsible for adjudicating naturalization  
 24 applications. 8 C.F.R. § 100.2.

25 21. CIS has a policy of processing naturalization applications in  
 26 chronological order, based upon date of receipt of the application and fee. In  
 27 accordance with this policy, when CIS receives a naturalization application and fee,  
 28 CIS grants the applicant a "priority date" that is based on the date of receipt. INS



1 Operation Instruction 103.2(q), *available at* Operations Instructions of the  
2 Immigration and Naturalization Service (Matthew Bender, 2007) (Lexis  
3 Immigration Library, Operations Instructions of the INS File).

4 22. Once CIS receives a naturalization application, it conducts a  
5 background investigation of the naturalization applicant. 8 U.S.C. § 1446(a); 8  
6 C.F.R. § 335.1.

7 23. In 1997, Congress enacted a law requiring the INS (the predecessor  
8 agency to CIS) to receive confirmation from the FBI that a “full criminal  
9 background check” has been completed on each naturalization applicant prior to the  
10 completion of adjudication of that application. Public Law 105-119, Title I, 111  
11 Stat. 2448-49 (Nov. 26, 1997).

12 24. In March 1998, to implement the FBI criminal background check law,  
13 the INS (CIS’s predecessor agency) promulgated a proposed rule for notice and  
14 public comment. *See* Requiring Completion of Criminal Background Checks  
15 Before Final Adjudication of Naturalization Applications, 63 Fed. Reg. 12979  
16 (Mar. 17, 1998). Thereafter, after receiving public comment, INS promulgated a  
17 final regulation found at 8 C.F.R. § 335.2(b) to implement the 1997 law.

18 25. Under 8 C.F.R. § 335.2(b), the FBI performs a criminal background  
19 check on each naturalization applicant. This criminal background check involves a  
20 fingerprint check and database check that confirm whether or not the applicant has  
21 an administrative or criminal record. 8 C.F.R. § 335.2(b). Both of these criminal  
22 background checks are usually completed within days if not hours.

23 26. After CIS completes the background investigation and the FBI  
24 completes the criminal background checks, CIS schedules a naturalization  
25 examination, at which an applicant meets with a CIS examiner who is authorized to  
26 ask questions and take testimony. 8 C.F.R. § 335.2(a). The examination typically  
27 includes questions testing the applicant’s English literacy and basic knowledge of  
28 the history and government of the United States. 8 C.F.R. § 335.2(c).



1           27. The CIS examiner must determine whether to grant or deny the  
2 naturalization application. 8 U.S.C. § 1446(d). Naturalization is not discretionary.  
3 CIS must grant a naturalization application if the applicant has complied with all  
4 requirements for naturalization. 8 C.F.R. § 335.3. CIS must make a final  
5 determination on every naturalization application, either at the time of the  
6 examination or, at the latest, within 120 days after the date of the examination. 8  
7 C.F.R. § 335.3.

8           28. Once an application is granted, CIS schedules the applicant for an oath  
9 ceremony at which he or she is sworn in as a United States citizen.

10          29. If CIS does not issue a decision within 120 days of the examination, an  
11 applicant may file suit in district court under 8 U.S.C. § 1447(b). That statute  
12 confers jurisdiction upon the district court in the district in which the applicant  
13 resides, and it allows the court either to determine the matter (and grant or deny  
14 citizenship) or to remand with appropriate instructions to CIS to determine the  
15 matter. *United States v. Hovsepian*, 359 F.3d 1144 (9th Cir. 2004). A primary  
16 purpose of that statute, enacted in 1990, was to decrease backlogs in the  
17 naturalization process and reduce waiting times for naturalization applicants. H.R.  
18 Rep. No. 101-187, at 8 (1989); 135 Cong. Rec. H4539-02, H4542 (1989) (statement  
19 of Rep. Morrison).

20          30. In addition, 8 U.S.C. § 1571(b) states, “It is the sense of Congress that  
21 the processing of an immigration benefit application should be completed not later  
22 than 180 days after the initial date of filing of the application[.]” Naturalization  
23 applications are among the “immigration benefit applications” included within this  
24 provision. This provision, along with 8 U.S.C. § 1571(a), § 1572, and § 1573,  
25 make clear Congress’ intent to eliminate persistent backlogs in the processing of  
26 immigration benefit applications. Moreover, Congress has defined the term  
27 “backlog” in the statute as “the period of time in excess of 180 days that such  
28 application has been pending before the Immigration and Naturalization Service.” 8

1 U.S.C. § 1572(1).

2 31. 8 U.S.C. § 1571(b) provides the statutory guideline and “rule of  
3 reason” for determining whether naturalization applications are being processed in  
4 a timely manner. Under the most straightforward reading of 8 U.S.C. § 1571(b), all  
5 naturalization applications that are not finally adjudicated within 180 days of the  
6 date of submission are unreasonably delayed.

7 32. In the alternative, under the most generous possible reading of the  
8 interaction between 8 U.S.C. § 1571(b), which sets forth the 180-day limit, and 8  
9 U.S.C. § 1447(b), which grants CIS a 120-day “grace period” after the completion  
10 of the naturalization examination before frustrated applicants may seek relief in  
11 federal court, naturalization applications in which applicants have passed their  
12 examinations but that have not been finally adjudicated within 300 days of  
13 submission are unreasonably delayed.

14 **CIS Expansion of “FBI Name Checks”**

15 33. Plaintiffs are informed and believe that CIS may have requested “FBI  
16 name checks” for some subset of naturalization applicants in past years. Plaintiffs  
17 are informed and believe that these FBI name checks may have involved FBI  
18 searches of an applicant’s name through only its criminal files and databases.

19 34. Plaintiffs are informed and believe that beginning in November 2002,  
20 CIS dramatically altered the naturalization procedure by expanding the scope of the  
21 FBI name check, both by requiring the FBI to make electronic and manual searches  
22 of additional non-criminal FBI files and databases, and by requiring completion of  
23 FBI name checks as a prerequisite to the final adjudication of every naturalization  
24 application.

25 35. The expanded FBI name check used by CIS for naturalization  
26 applications is not part of the FBI criminal background checks that are required by  
27 Public Law 105-119, Title I, 111 Stat. 2448-49 (Nov. 26, 1997) and implemented  
28 pursuant to 8 § C.F.R. 335.2.

1           36. When it expanded the FBI name check in November 2002, CIS did not  
2 promulgate a proposed rule or give notice and an opportunity for public comment  
3 on the rule, as it had done in 1998 when implementing the FBI criminal background  
4 check requirement.

5           37. The expanded FBI name check was a substantive departure from prior  
6 CIS policy because it imposed a new requirement in naturalization procedure not  
7 based on statute or regulations and because it has had a substantial adverse effect on  
8 applicants for naturalization by causing significant delays in adjudication. As such,  
9 the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*, required CIS to  
10 promulgate a proposed rule, provide a notice and comment period, and thereafter  
11 promulgate a final rule prior to enacting the November 2002 expanded FBI name  
12 check.

13           38. Plaintiffs are informed and believe that the expanded FBI name check  
14 consists of a search of a person's name through the FBI's criminal and non-criminal  
15 files in its Central Records System. The Central Records System contains  
16 administrative, applicant, criminal, personnel, and other FBI files. Plaintiffs are  
17 informed and believe that, since November 2002, the expanded FBI name check on  
18 naturalization applications includes an FBI search of not only criminal "main files"  
19 but also non-criminal "reference files" in the FBI's Central Records System.

20           39. By way of background, the FBI does not conduct name checks solely  
21 for the CIS. Rather, it conducts name checks on a fee-for-service basis in response  
22 to requests by other federal agencies, congressional committees, the federal  
23 judiciary, and state and local criminal justice agencies. Name checks may be  
24 sought for persons seeking government employment, a security clearance,  
25 attendance at a White House function, admission to the bar, or a visa for visiting the  
26 United States.

27           40. Name checks are conducted by personnel in the FBI's National Name  
28 Check Program.

1           41.    CIS requests the FBI to conduct name checks on all applications for  
2 naturalization and applications for lawful permanent resident status.

3           42.    Plaintiffs are informed and believe that the scope of FBI name checks  
4 may vary based on the requesting agency. Plaintiffs are informed and believe that  
5 each FBI name check based upon a CIS request can involve up to four stages –  
6 batch processing, name searching, file review, and dissemination. Batch processing  
7 involves the transfer of applicant information from CIS to the FBI, uploading of  
8 that information into an FBI system, and electronic checking of those names against  
9 the FBI's Universal Index. Name searching involves conducting manual electronic  
10 searches by entering the applicant's name into FBI databases. File review involves  
11 retrieving and reviewing FBI electronic and paper files that are identified as  
12 possibly containing information on a particular individual whose name is being  
13 checked. Files are reviewed for possible derogatory information on the applicant in  
14 question. Dissemination involves providing a summary of the relevant information  
15 to CIS.

16           43.    Plaintiffs are informed and believe that if the initial stages of a name  
17 check yield a "No Record" result, indicating no identifiable FBI information  
18 regarding a particular individual, the FBI does not search further, and it provides  
19 the "No Record" result to CIS. At that point, the FBI considers the name check to  
20 be complete. However, if the initial stages of a name check yield any indication  
21 that the FBI has information on a particular individual, the FBI employs the later  
22 stages of the name check to retrieve and review its files and search for derogatory  
23 information, and report the results.

24           44.    Plaintiffs are informed and believe that since the November 2002  
25 expansion, CIS does not adjudicate applications for naturalization until it receives  
26 the results of a completed name check from the FBI.

27           45.    Plaintiffs are informed and believe that CIS and the FBI have entered  
28 into written agreements regarding the conduct of FBI name checks on, among

1 others, applicants for naturalization, and that in these agreements neither CIS nor  
2 the FBI impose any time limits for the completion of name checks.

3 46. Plaintiffs are informed and believe that from time to time and under  
4 certain circumstances, CIS requests the FBI to expedite the name checks of certain  
5 individuals, including certain applicants for naturalization.

6 47. Plaintiffs are informed and believe that beginning in April 2006, in  
7 response to a deluge of lawsuits around the country brought by frustrated post-  
8 examination naturalization applicants pursuant to 8 U.S.C. § 1447(b), CIS  
9 implemented a new policy of refusing to schedule naturalization examinations for  
10 those applicants whose FBI name checks were not completed. CIS has stated that  
11 an express purpose of this policy change was to preclude litigation under 8 U.S.C. §  
12 1447(b) by those who have passed naturalization examinations and are awaiting  
13 final adjudication of their naturalization applications. As a result of this change in  
14 policy, which appears to be an explicit effort to thwart Congress's intent to provide  
15 delayed naturalization applicants with recourse to the federal courts, the  
16 applications of substantial numbers of class members have been unreasonably  
17 delayed, and naturalization examinations have not been scheduled because of  
18 pending FBI name checks.

### 19 **Questionable Value and Adverse Effects of FBI Name Checks**

20 48. Name checks are now a key cause of delays in the processing of  
21 applications for naturalization, as well as applications for other immigration  
22 benefits such as green cards. In both 2006 and 2007, the CIS Ombudsman—the  
23 individual tasked by Congress to provide recommendations on improving CIS  
24 services and operations—declared that name checks “significantly delay  
25 adjudication of immigration benefits for many customers, hinder backlog reduction  
26 efforts, and may not achieve their intended security objectives.” Citizenship and  
27 Immigration Services Ombudsman Annual Report 2006 (hereinafter “2006  
28 Report”), at 23 (June 29, 2006) *available at* [www.dhs.gov/cisombudsman](http://www.dhs.gov/cisombudsman);

1 Citizenship and Immigration Services Ombudsman Annual Report 2007  
2 (hereinafter “2007 Report”), at 37 (June 11, 2007) *available at*  
3 [www.dhs.gov/cisombudsman](http://www.dhs.gov/cisombudsman) (last visited December 4, 2007).

4 49. In the most recent report, the Ombudsman declared that “FBI name  
5 checks may be the single biggest obstacle to the timely and efficient delivery of  
6 immigration benefits” and that the delays are getting worse, not better. 2007 Report  
7 at 37. The report noted that as of May 2007, over 329,000 CIS name checks were  
8 pending, with 64 percent of those cases (over 211,000) pending more than 90 days,  
9 and 32 percent (almost 107,000) pending more than one year. *Id.* at 37. The report  
10 also found that the problem of long-pending name checks has worsened in the last  
11 year. *Id.*

12 50. The Ombudsman also questioned the value of FBI name checks in  
13 accomplishing their stated purpose, which is to detect persons who should be  
14 denied immigration benefits because they pose a danger or threat to security. In  
15 response to CIS’s claims of effectiveness, the Ombudsman declared that “most, if  
16 not all, of the problem cases which would result in an eventual denial of benefits  
17 also can be revealed by the other more efficient, automated criminal and security  
18 checks that USCIS initiates.” 2007 Report at 41.

19 51. Moreover, the Ombudsman “agree[d] with the assessment of many  
20 case workers and supervisors at USCIS field offices and service centers that the FBI  
21 name check process has limited value to public safety or national security,  
22 especially because in almost every case the applicant is in the United States during  
23 the name check process, living or working without restriction.” 2007 Report at 40.  
24 In further acknowledgment of the limited use of name checks, the Ombudsman  
25 noted that “[n]ame checks are not conducted by the FBI as part of ongoing  
26 investigations or from a need to learn more about an individual because of any  
27 threat or risk perceived by the FBI.” 2007 Report at 38.

28 52. In addition, “[t]o date, the Ombudsman has been unable to ascertain



1 from USCIS the total number of actual problem cases that the agency discovered  
2 exclusively as a result of the FBI name check.” 2007 Report at 41. Indeed, neither  
3 CIS nor the FBI has ever shown that naturalization applicants, as a class, pose a  
4 special danger or threat to security. In addition, neither CIS nor the FBI has ever  
5 shown that the FBI name check alone has led to the detection of even *one*  
6 naturalization applicant who posed a danger or threat to security.

7 53. Finally, according to the Ombudsman, the FBI has admitted “that it  
8 lacks the resources to perform the [CIS name check] function in a timely manner.”  
9 2007 Report at 39.

## 10 STATEMENT OF FACTS

### 11 Plaintiffs

12 54. Plaintiff Maria Stanwick is a native and citizen of Peru. She came to  
13 the United States in 1999 on a tourist visa and has been a lawful permanent resident  
14 since 2000. She lives with her husband and two children – all U.S. citizens – in  
15 Newport Beach, California.

16 55. Ms. Stanwick submitted her application for naturalization to CIS in  
17 March 2005. CIS granted her a priority date on her naturalization application of  
18 March 22, 2005. Ms. Stanwick passed her naturalization examination in September  
19 2005. Over three years later, CIS has yet to adjudicate her application despite the  
20 fact that she has provided all necessary information in support of her application,  
21 including her fingerprints. Ms. Stanwick has made numerous inquiries about her  
22 application with CIS and has requested the intervention of United States Senator  
23 Barbara Boxer, but still CIS fails to adjudicate her application.

24 56. On September 9, 2005, CIS informed Ms. Stanwick that her  
25 naturalization application was pending the results of her background check. Since  
26 that time, Ms. Stanwick has not received any other information regarding the reason  
27 for the delay of her application. As a result, Ms. Stanwick believes that her  
28



1 application continues to be delayed due to pending FBI name and background  
2 checks. According to the joint plan adopted by CIS and the FBI in February 2008  
3 to reduce the FBI name check backlog, Ms. Stanwick's name check should have  
4 been completed no later than May 31, 2008.

5 57. Ms. Stanwick would like to join her husband and children in enjoying  
6 the privileges of U.S. citizenship, including the right to vote.

7 58. Plaintiff Mourad Jellabi is a native and citizen of Tunisia. He came to  
8 the United States in 1995 and was granted asylum and became a lawful permanent  
9 resident as of 1995. He lives in Valley Village, California.

10 59. Mr. Jellabi submitted his application for naturalization to CIS in  
11 February 2006. CIS granted him a priority date on his naturalization application of  
12 February 14, 2006. Mr. Jellabi has provided all necessary documentation in  
13 support of his application for citizenship. CIS has not yet scheduled a  
14 naturalization examination for Mr. Jellabi.

15 60. Mr. Jellabi has to believe that his application has pending for nearly  
16 two years due to the FBI name check. On three occasions, Mr. Jellabi scheduled  
17 appointments through Infopass with CIS to inquire about his application. During  
18 these appointments, CIS officials told Mr. Jellabi that his application is pending due  
19 to a background check.

20 61. Mr. Jellabi works as a surgical technician. He seeks U.S. citizenship  
21 so that he may sponsor his wife, who resides in Tunisia, to immigrate to the United  
22 States. In March 2006, Mr. Jellabi filed a visa petition to immigrate his wife to the  
23 United States, but there are currently no visas available for her relative preference  
24 category. As a U.S. citizen, Mr. Jellabi would be able to immigrate his wife to the  
25 United States as an immediate relative, without limits on the number of available  
26 visas.

27 62. Mr. Jellabi also wishes to become a U.S. citizen in order to vote.

28 63. Plaintiff Sonali Padmakar Kolhatkar was born in the United Arab

1 Emirates and is a citizen of India who came to the United States in 1991 on a  
2 student visa. Ms. Kohlhatkar has been a lawful permanent resident since 2001.  
3 She lives with her husband of over nine years – a U.S. citizen – and their U.S.  
4 citizen son in Pasadena, California. Since 2002, Ms. Kolhatkar has worked as a  
5 journalist at the Pacifica Foundation. Prior to her current job, she was an  
6 Applications Developer at the California Institute of Technology.

7 64. Ms. Kolhatkar submitted her naturalization application to CIS in  
8 January 2005. CIS granted her a priority date based upon her application of  
9 February 7, 2005. On August 5, 2005, Ms. Kolhatkar passed her naturalization  
10 examination. Over three years later, her application has yet to be adjudicated  
11 despite the fact that she had provided all necessary information in support of her  
12 application including her fingerprints. CIS had informed Ms. Kolhatkar that the  
13 sole reason her naturalization application has not been adjudicated is because of  
14 pending FBI background checks.

15 65. According to the joint plan adopted by CIS and FBI in February 2008  
16 to reduce the FBI name check backlog, Ms. Kolhatkar's application should have  
17 been adjudicated no later than July 31, 2008, but it has not.

18 66. Ms. Kolhatkar would like to become a U.S. citizen so that she may  
19 vote in U.S. elections and travel on a U.S. passport.

20 67. Ms. Kolhatkar's work includes investigative journalism. Due to her  
21 immigration status, her supervisors have limited her opportunities to cover public  
22 events with a police presence, including peaceful protests, out of fear that she might  
23 be arrested, which might put her immigration status in jeopardy. Ms. Kolhatkar  
24 feels that her inability to naturalize is, therefore, limiting her ability to fully engage  
25 in her profession.

26 68. In addition, Ms. Kolhatkar would like to sponsor her sister for lawful  
27 permanent residence to the United States. Her sister had a promising job at a  
28 Seattle-based video game company, but was unable to obtain an employment visa,

1 and therefore, had to leave her job and return to the United Arab Emirates. As a  
2 U.S. citizen, Ms. Kolhatkar can petition for her sister's permanent residence,  
3 whereas as a lawful permanent resident, she cannot.

4 **Defendants' Policies And Practices**

5 69. Plaintiffs are informed and believe that Defendants Napolitano, Aytes,  
6 and Arellano have a policy, pattern, and practice of failing to process and adjudicate  
7 the applications for naturalization of the proposed plaintiff class in accordance with  
8 statutory deadlines, namely within 180 days of the date of submission of such  
9 applications, and within 120 days of the date of naturalization examinations,  
10 because of pending FBI name checks.

11 70. Plaintiffs are informed and believe that Defendants Napolitano, Aytes,  
12 and Arellano have a policy, pattern, and practice of unlawfully withholding and  
13 unreasonably delaying the processing and adjudication of applications for  
14 naturalization of the proposed plaintiff class, in utter disregard of statutory  
15 deadlines, because of pending FBI name checks.

16 71. Plaintiffs are informed and believe that Defendants Napolitano, Aytes,  
17 and Arellano have a policy, pattern, and practice of unlawfully failing to take all  
18 necessary steps to complete FBI name checks in a timely manner so as to allow CIS  
19 to process and adjudicate the applications for naturalization of the proposed  
20 plaintiff class within 180 days of the date of submission of such applications, and  
21 within 120 days of the date of naturalization examinations, in accordance with  
22 statutory deadlines.

23 72. Plaintiffs are informed and believe that Defendants Filip and Mueller  
24 have a policy, pattern, and practice of failing to complete FBI name checks in a  
25 timely manner, with the full knowledge that CIS requires the completion of such  
26 name checks for processing and adjudication of applications for naturalization of  
27 the proposed plaintiff class, and with the full knowledge that the statutory deadlines  
28 require CIS to process and adjudicate such applications within 180 days of the date

1 of submission, and within 120 days of the date of naturalization examinations.  
2 Defendants Filip and Mueller's actions and omissions result in the unlawful  
3 withholding of and unreasonable delays in the completion of FBI name checks.

4 73. Plaintiffs are informed and believe that Defendants have a policy,  
5 pattern, and practice of failing to set deadlines for completing FBI name checks and  
6 taking all the other reasonable steps necessary to complete the adjudication of  
7 applications for naturalization of the proposed plaintiff class, in utter disregard of  
8 statutory deadlines that require CIS to process and adjudicate such applications  
9 within 180 days of the date of submission, and within 120 days of the date of  
10 naturalization examinations.

11 74. Plaintiffs are informed and believe that Defendants Napolitano, Aytes,  
12 and Arellano have a policy, pattern and practice of unlawfully requiring FBI name  
13 checks for adjudication of applications for naturalization of the proposed plaintiff  
14 class, despite the lack of any statutory or regulatory authorization for such name  
15 checks.

16 75. Plaintiffs are informed and believe that Defendants Filip, Napolitano,  
17 Aytes, and Arellano unlawfully expanded the FBI name checks in November 2002,  
18 as set forth above, without giving notice to the public and allowing a period for  
19 public comment and without promulgating a regulation. Requiring name checks as  
20 a prerequisite to naturalization effected a substantive change in existing law,  
21 resulting in substantial and undue hardship and burden to the proposed plaintiff  
22 class.

23 76. As a result of the Defendants' policies, practices, actions, and  
24 omissions described herein, members of the proposed plaintiff class have suffered  
25 injury, in that they have been unlawfully denied the rights and benefits of U.S.  
26 citizenship. Among other things, members of the proposed plaintiff class have been  
27 unable to vote in local, state, and national elections that have occurred since the  
28 adjudication of their naturalization applications, including state and national

elections in 2006, 2007, and 2008. They have been unable to sponsor expeditiously their immediate relatives living abroad for permanent residence in the United States. They have been unable to travel freely outside of the United States because they do not have U.S. passports and the guarantee of re-admission into the country upon their return. Finally, they have been unable to apply for certain types of employment, educational grants and loans, and other benefits that are limited to U.S. citizens.

### CLASS ALLEGATIONS

77. Plaintiffs bring this action on behalf of themselves and all other persons similarly situated pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2). The class, as proposed by Plaintiffs, consists of:

All lawful permanent residents who have submitted or will submit applications for naturalization to the CIS Los Angeles District Office and its sub-offices, and whose applications for naturalization have not been or will not be adjudicated by CIS for over 300 days from the date of submission, because of pending FBI name checks, excluding those individuals who have filed and have pending individual actions relating to this subject matter.

78. The proposed Plaintiff class includes a sub-class of Plaintiffs (hereinafter referred to as the "Post-Examination Plaintiffs") that consists of:

All lawful permanent residents who have submitted or will submit applications for naturalization to the CIS Los Angeles District Office and its sub-offices, who have passed or will pass their naturalization examinations, whose applications for naturalization have not been or will not be adjudicated by CIS for over 300 days from the date of submission, and whose applications for naturalization have not been or will not be adjudicated by CIS for over 120 days from the date of the

1 naturalization examination, because of pending FBI name checks,  
2 excluding those individuals who have filed and have pending  
3 individual actions relating to this subject matter.

4 79. The requirements of Federal Rules of Civil Procedure 23(a) and  
5 23(b)(2) are met in that the class is so numerous that joinder of all members is  
6 impracticable. Counsel for Plaintiffs are aware of at least two dozen proposed class  
7 members who are similarly situated to the named Plaintiffs.

8 80. There are questions of law and fact common to the proposed class that  
9 predominate over any questions affecting only the individually named Plaintiffs,  
10 including: (1) whether CIS's actions and omissions, including its failure to  
11 adjudicate the naturalization applications of the proposed plaintiff class within 180  
12 days of the date of submission because of pending FBI name checks, and its failure  
13 to impose deadlines on the completion of FBI name checks in accordance with  
14 statutory deadlines, violate the Immigration and Nationality Act and implementing  
15 regulations and constitute unreasonable delay and unlawful withholding of agency  
16 action in violation of the Administrative Procedure Act; (2) whether the FBI's  
17 actions and omissions, including its failure to complete name checks in a timely  
18 fashion so as to allow CIS to adjudicate the naturalization applications of the  
19 proposed plaintiff class within 180 days of the date of submission, in accordance  
20 with statutory deadlines, constitute unreasonable delay and unlawful withholding of  
21 agency action in violation of the Administrative Procedure Act; (3) whether CIS  
22 and the FBI's failure to set deadlines for completing name checks and failure to  
23 take all the other reasonable steps necessary to complete the adjudication of  
24 applications for naturalization of the proposed plaintiff class within 180 days of the  
25 date of submission, in accordance with statutory deadlines, violate the  
26 Administrative Procedure Act; and (4) whether CIS's failure to provide the  
27 opportunity for public notice and comment of the expanded FBI name check  
28 requirement violates the Administrative Procedure Act.



1           81. The claims of the named Plaintiffs are typical of the claims of the  
 2 proposed class. The named Plaintiffs, like all class members, are lawful permanent  
 3 residents who have submitted applications for naturalization, and whose  
 4 applications CIS has failed to process or adjudicate despite the passage of over 180  
 5 days since the date of submission, because of pending FBI name checks. Like all  
 6 members of the proposed class, the named Plaintiffs bring claims under the  
 7 Administrative Procedure Act against both CIS and the FBI and a claim under the  
 8 Fifth Amendment Due Process Clause against CIS and the FBI.

9           82. All of the named Plaintiffs will fairly and adequately represent the  
 10 interests of all members of the proposed class because they seek relief on behalf of  
 11 the class as a whole and have no interests antagonistic to other members of the  
 12 class. In addition, Plaintiff Stanwick will fairly and adequately represent the  
 13 interests of all members of the proposed Post-Examination plaintiff sub-class  
 14 because she seeks relief on behalf of the class as a whole and has no interests  
 15 antagonistic to other members of the sub-class. The named Plaintiffs are also  
 16 represented by pro bono counsel, including the National Immigration Law Center,  
 17 the ACLU of Southern California, Asian Pacific American Legal Center, and the  
 18 law firm of Munger, Tolles & Olson LLP, who have extensive expertise in class  
 19 action litigation, including litigation regarding the rights of immigrants. Finally,  
 20 Defendants have acted on grounds generally applicable to the class, thereby making  
 21 appropriate final injunctive relief with respect to the class as a whole.

22  
 23                               **FIRST CLAIM FOR RELIEF**  
 24                               **VIOLATIONS OF THE ADMINISTRATIVE PROCEDURE ACT**  
 25                               **ALL PLAINTIFFS AGAINST DEFENDANTS NAPOLITANO, AYTES AND**  
 26                               **ARELLANO**

27           83. Plaintiffs reallege and reassert the foregoing paragraphs as if set forth  
 28 fully herein.



1           84. The Administrative Procedure Act requires administrative agencies to  
2 conclude matters presented to them “within a reasonable time.” 5 U.S.C. § 555. A  
3 district court reviewing agency action may “compel agency action unlawfully  
4 withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The court also may hold  
5 unlawful and set aside agency action that, inter alia, is found to be: “arbitrary,  
6 capricious, an abuse of discretion, or otherwise not in accordance with law,” 5  
7 U.S.C. § 706(2)(A); “in excess of statutory jurisdiction, authority, or limitations, or  
8 short of statutory right,” 5 U.S.C. § 706(2)(C); or “without observance of procedure  
9 required by law,” 5 U.S.C. § 706(2)(D). “Agency action” includes, in relevant part,  
10 “an agency rule, order, license, sanction, relief, or the equivalent or denial thereof,  
11 or failure to act.” 5 U.S.C. §551(13).

12           85. The actions and omissions of Defendants Napolitano, Aytes, and  
13 Arellano in failing to adjudicate the applications for naturalization of the proposed  
14 plaintiff class within 180 days of the date of submission because of pending FBI  
15 name checks, in violation of 8 U.S.C. § 1446(d), 8 U.S.C. § 1447(b) 8 U.S.C. §  
16 1571(b), and 8 C.F.R. § 335, violate the Administrative Procedure Act, 5 U.S.C. §  
17 555(b); 5 U.S.C. §§ 706(1), 706(2)(A), 706(2)(C), 706(2)(D).

18           86. The actions and omissions of Defendants Napolitano, Aytes, and  
19 Arellano in failing to set deadlines for completing FBI name checks and to take all  
20 the other reasonable steps necessary to complete the adjudication of applications for  
21 naturalization of the proposed plaintiff class within 180 days of the date of  
22 submission because of pending FBI name checks, in violation of 8 U.S.C. §  
23 1446(d), 8 U.S.C. § 1447(b), 8 U.S.C. § 1571(b), and 8 C.F.R. § 335, violate the  
24 Administrative Procedure Act, 5 U.S.C. § 555(b); 5 U.S.C. §§ 706(1), 706(2)(A),  
25 706(2)(C), 706(2)(D).

26           87. Defendants have a duty under 8 U.S.C. § 1446(d), 8 U.S.C. § 1447(b)  
27 8 U.S.C. § 1571(b), and 8 C.F.R. § 335 to finally adjudicate Plaintiffs’  
28 naturalization applications within the deadlines imposed by statute and regulations.

1 Defendants' unlawful conduct in failing to do so has resulted in, inter alia,  
 2 unreasonable delays in and unlawful withholding of the adjudication of Plaintiffs'  
 3 naturalization applications. As a result of Defendants' actions in utter indifference  
 4 to statutory deadlines, Plaintiffs have suffered and continue to suffer injury.  
 5 Declaratory and injunctive relief are therefore warranted.

## 6 **SECOND CLAIM FOR RELIEF**

### 7 **VIOLATIONS OF THE ADMINISTRATIVE PROCEDURE ACT**

#### 8 **ALL PLAINTIFFS AGAINST DEFENDANTS FILIP AND MUELLER**

9 88. Plaintiffs reallege and reassert the foregoing paragraphs as if set forth  
 10 fully herein.

11 89. The Administrative Procedure Act requires administrative agencies to  
 12 conclude matters presented to them "within a reasonable time." 5 U.S.C. § 555. A  
 13 district court reviewing agency action may "compel agency action unlawfully  
 14 withheld or unreasonably delayed." 5 U.S.C. § 706(1). The court also may hold  
 15 unlawful and set aside agency action that, inter alia, is found to be: "arbitrary,  
 16 capricious, an abuse of discretion, or otherwise not in accordance with law," 5  
 17 U.S.C. § 706(2)(A); "in excess of statutory jurisdiction, authority, or limitations, or  
 18 short of statutory right," 5 U.S.C. § 706(2)(C); or "without observance of procedure  
 19 required by law," 5 U.S.C. § 706(2)(D). "Agency action" includes, in relevant part,  
 20 "an agency rule, order, license, sanction, relief, or the equivalent or denial thereof,  
 21 or failure to act." 5 U.S.C. § 551(13).

22 90. The failure of Defendants Filip and Mueller to timely complete FBI  
 23 name checks, or to set or adhere to any timelines for completion of FBI name  
 24 checks, with the full knowledge that CIS requires the completion of such name  
 25 checks for adjudication of applications for naturalization of the proposed plaintiff  
 26 class, and with the full knowledge of the statutory deadlines and requirements for  
 27 adjudication of naturalization applications pursuant to 8 U.S.C. § 1446, 8 U.S.C. §  
 28 1447(b), 8 U.S.C. § 1571(b), and 8 C.F.R. § 335, violates the Administrative

1 Procedure Act, 5 U.S.C. § 555(b); 5 U.S.C. §§ 706(1), 706(2)(A), 706(2)(C),  
 2 706(2)(D).

3 91. Defendants Filip and Mueller have a duty pursuant to the  
 4 Administrative Procedure Act, agreements with CIS, and Executive Order 10450, to  
 5 timely complete CIS-initiated name checks for naturalization applications, given  
 6 Defendants' full knowledge that FBI name checks are required to finally adjudicate  
 7 Plaintiffs' naturalization applications within the deadlines imposed by statute and  
 8 regulations. Defendants' unlawful conduct in failing to do so has resulted, inter  
 9 alia, in unreasonable delays in and unlawful withholding of the adjudication of  
 10 Plaintiffs' naturalization applications. As a result of Defendants' actions in utter  
 11 indifference to statutory deadlines, Plaintiffs have suffered and continue to suffer  
 12 injury. Declaratory and injunctive relief are therefore warranted.

### 13 **THIRD CLAIM FOR RELIEF**

#### 14 **PETITIONS FOR NATURALIZATION**

#### 15 **POST-EXAMINATION PLAINTIFFS AGAINST DEFENDANTS**

#### 16 **NAPOLITANO, AYLES, AND ARELLANO**

17 92. Plaintiffs reallege and reassert the foregoing paragraphs as if set forth  
 18 fully herein.

19 93. Defendants have failed to finally adjudicate the Post-Examination  
 20 Plaintiffs' applications for naturalization within 120 days of the date of their  
 21 naturalization examinations, in violation of 8 U.S.C. § 1447(b). Pursuant to 8  
 22 U.S.C. § 1447(b), this Court should exercise its authority to grant the Post-  
 23 Examination Plaintiffs' naturalization applications, or to remand to CIS with  
 24 appropriate instructions to complete the FBI name checks and to finally adjudicate  
 25 these Plaintiffs' applications thereafter within a reasonable time period, as set forth  
 26 in the prayer for relief below.

27 94. Named Plaintiff Stanwick seeks a determination by the Court that he  
 28 meets the requirements for naturalization and is to be naturalized as a U.S. citizen

1 without further delay, pursuant to 8 U.S.C. § 1447(b).

2 **FOURTH CLAIM FOR RELIEF**

3 **VIOLATION OF DUE PROCESS CLAUSE**

4 **ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

5 95. Plaintiffs reallege and reassert the foregoing paragraphs as if set forth  
6 fully herein.

7 96. The Due Process Clause of the Fifth Amendment prohibits the  
8 government from depriving any person of life, liberty or property without due  
9 process of law. U.S. CONST., AMEND. V.

10 97. Defendants Napolitano, Aytes, and Arellano have a pattern, practice,  
11 or policy of failing to adjudicate the applications for naturalization of the proposed  
12 plaintiff class within 180 days of the date of submission of such applications and  
13 within 120 days of the date of naturalization examinations because of pending FBI  
14 name checks, in violation of 8 U.S.C. § 1446(d), 8 U.S.C. § 1447(b), 8 U.S.C. §  
15 1571, and 8 C.F.R. § 335.

16 98. Defendants Filip and Mueller have a pattern, practice, or policy of  
17 failing to timely complete FBI name checks, with the full knowledge that CIS  
18 requires the completion of such “name checks” for adjudication of applications for  
19 naturalization of the proposed plaintiff class within the statutory deadlines.

20 99. Defendants have a pattern, practice, or policy of failing to set deadlines  
21 for completing “name checks” and to take all the other reasonable steps necessary  
22 to complete the adjudication of applications for naturalization of the proposed  
23 plaintiff class within 180 days of the date of submission of such applications and  
24 within 120 days of the date of naturalization examinations because of pending FBI  
25 name checks, in violation of 8 U.S.C. § 1446(d), 8 U.S.C. § 1447(b), 8 U.S.C. §  
26 1571, and 8 C.F.R. § 335.

27 100. The above-described actions and omissions by Defendants violate  
28 Plaintiffs’ rights to due process of law. As a result of Defendants’ actions, Plaintiffs

1 have suffered and continue to suffer injury. Declaratory and injunctive relief are  
2 therefore warranted.

3 **FIFTH CLAIM FOR RELIEF**

4 **VIOLATION OF NOTICE-AND-COMMENT REQUIREMENTS OF THE**

5 **ADMINISTRATIVE PROCEDURE ACT**

6 **ALL PLAINTIFFS AGAINST DEFENDANTS NAPOLITANO, AYLES, AND**

7 **ARELLANO**

8 101. Plaintiffs reallege and reassert the foregoing paragraphs as if set forth  
9 fully herein.

10 102. Defendants Napolitano, Ayles and Arellano's actions in November  
11 2002 to expand the FBI name check for naturalization applications constitute a rule  
12 within the meaning of 5 U.S.C. § 551(4).

13 103. The Administrative Procedures Act, 5 U.S.C. § 553, requires  
14 administrative agencies to provide a notice-and-comment period prior to  
15 implementing a substantive rule, including a rule that is a departure from prior  
16 policy and practice and that has a substantial adverse effect upon a large number of  
17 those affected.

18 104. Defendants Napolitano, Ayles, and Arellano's actions and omissions  
19 in failing to provide a notice-and-comment period prior to the November 2002  
20 expansion of the FBI name check requirement violated 5 U.S.C. § 553 in that the  
21 expansion constituted a substantive rule that departed from prior policy and practice  
22 and has had a substantial adverse effect upon a large number of those affected,  
23 namely naturalization applicants.

24 105. As a result of Defendants' actions and omissions, Plaintiffs were  
25 injured, and declaratory and injunctive relief is appropriate.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs respectfully request that the Court:  
28

- 1           1.     Assume jurisdiction over the matter;
- 2           2.     Certify the class of Plaintiffs and the sub-class of Post-Examination
- 3 Plaintiffs, as proposed herein;
- 4           3.     Review de novo and grant the naturalization of Plaintiff Stanwick,
- 5 pursuant to 8 U.S.C. § 1447(b);
- 6           4.     With respect to the certified class of Plaintiffs, and the sub-class of
- 7 Post-Examination Plaintiffs, order Defendants to: (a) take all necessary steps to
- 8 complete all FBI name checks of class members within a reasonable time period not
- 9 to exceed 45 days from the date of the Court's order; and (b) finally adjudicate all
- 10 naturalization applications of class members within a reasonable time period not to
- 11 exceed 90 days from the date of the Court's order.
- 12           5.     Enjoin Defendants and order them to: (a) take all necessary steps to
- 13 complete all FBI name checks of naturalization applicants within 90 days from the
- 14 date of submission of the applications; (b) finally adjudicate all naturalization
- 15 applications within 180 days from the date of submission; and (c) finally adjudicate
- 16 all naturalization applications within 120 days from the date of the naturalization
- 17 examination.
- 18           6.     Order Defendants Napolitano, Aytes, and Arellano to revoke and
- 19 suspend the November 2002 expansion of the FBI name check with respect to
- 20 naturalization applications, until such time as Defendants have completed
- 21 promulgating a rule following the process for notice and comment by the public;
- 22           7.     Issue a declaratory judgment holding unlawful:
- 23 (a)   the actions and omissions of Defendants Napolitano, Aytes, and Arellano in
- 24 failing to adjudicate applications for naturalization within 180 days of the date of
- 25 submission, because of pending FBI name checks;
- 26 (b)   the actions and omissions of Defendants Filip and Mueller in failing to timely
- 27 complete FBI name checks to allow CIS to adjudicate applications for
- 28 naturalization within 180 days of the date of submission;

1 (c) the actions and omissions of Defendants Napolitano, Aytes, and Arellano in  
2 failing to adjudicate applications for naturalization within 120 days of the date of  
3 the naturalization examination, because of the pending FBI name checks; and  
4 (d) the actions and omissions of all Defendants in failing to set deadlines and to  
5 take all necessary steps to adjudicate applications for naturalization within 180 days  
6 of the date of submission and within 120 days of the date of the naturalization  
7 examinations.

8 8. Award reasonable attorney fees and costs pursuant to the Equal Access  
9 to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412; and

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9. Grant any and all further relief this Court deems just and proper.

DATED: January 30, 2009

Respectfully submitted,

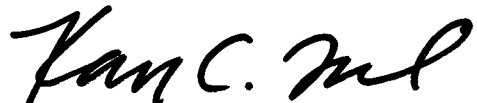
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By:



KAREN C. TUMLIN

Attorneys for Plaintiffs

**PROOF OF SERVICE BY MAIL**

I, Naghmeh Harirchi , declare:

1. I am over the age of 18 and not a party to the within cause. I am employed by the National Immigration Law Center in the County of Los Angeles, State of California. My business address is 3435 Wilshire Blvd., Suite 2850, Los Angeles, California 90010.

2. On January 30, 2009, I served a true copy of the attached document entitled

**THIRD AMENDED COMPLAINT**

by placing it in an addressed sealed envelope(s) clearly labeled to identify the person(s) being served at the address(es) shown below/set forth on the attached service list and placed said envelope(s) in interoffice mail for collection and deposit with the United States Postal Service at 3435 Wilshire Blvd., Suite 2850, Los Angeles, California on that same date, following ordinary business practices:

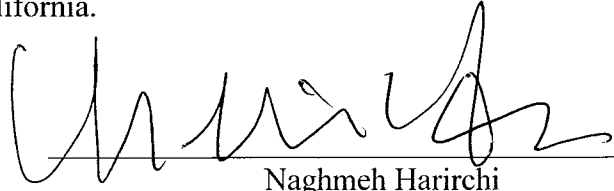
ELIZABETH J. STEVENS, ESQ.  
Assistant Director,  
District Court Section  
Office of Immigration Litigation  
P.O. Box 868, Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 616-9752  
Facsimile: (202) 305-7000  
E-mail: elizabeth.stevens@usdoj.gov3.

I am familiar with National Immigration Law Center's practice for collection and processing correspondence for mailing with the United States Postal Service; in the ordinary course of business, correspondence placed in interoffice mail is deposited with the United States Postal Service with first class postage thereon fully prepaid on the same day it is placed for collection and mailing.

PROOF OF SERVICE

1 I declare that I am employed in the office of a member of the bar of this court at  
2 whose direction the service was made.

3 I declare under penalty of perjury that the foregoing is true and correct. Executed  
4 on January 30, 2009, at Los Angeles, California.

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Naghmeh Harirchi