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8 Attorneys for Plaintiffs

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 San Francisco / Oakland Division

12 Immigration Case

13 )  
14 HANNA DOBASHI; HAJER TALEB; ) Case No.  
15 RASHAD HIZAM ALAMARI; YARA AL )  
16 AMRI; AMEEN ALSHOHATEE; FAHMI )  
17 ABDO KHALED HASSAN; FAWWAZ ) **COMPLAINT**  
18 ISMAIL; EBRAHIM MUSLEH )  
19 MOHAMED; ABDO ALI MOHAMED; )  
20 MAHER NAGI MUSAIID; TUFALIC )  
21 MOHAMED NAGI; NASSEM OMER; and )  
22 MUSED ALI RIYASHI; )

19 Plaintiffs,

20 vs.

21 DONALD TRUMP, in his official capacity as )  
22 President of the United States; MICHAEL )  
23 POMPEO, in his official capacity as Secretary )  
24 of the Department of State; KEVIN )  
25 MCALEENAN, in his official capacity as )  
26 Acting Secretary of the Department of )  
27 Homeland Security; THE UNITED STATES )  
28 OF AMERICA; THE UNITED STATES )  
DEPARTMENT OF STATE; and THE )  
UNITED STATES DEPARTMENT OF )  
HOMELAND SECURITY; )

27 Defendants.

TITLE OF DOCUMENT: \_\_\_\_\_ CASE NO.: \_\_\_\_\_

PAGE NO. \_\_\_\_ OF \_\_\_\_



1           2.       Plaintiffs are all seeking to protect their families from violence, famine, disease,  
2 and the general collapse of their home country of Yemen due to war, and to live together with  
3 their loved ones in safety in this country, which Plaintiffs call home.

4           3.       It is estimated that 91,600 people have been killed in Yemen since the war began,  
5 including by airstrike and in ground battles. According to the Washington Post, 30,800 were  
6 killed in 2018 alone, and 11,900 have been killed thus far in 2019.<sup>1</sup>

7           4.       In addition to the dangers of the armed conflict, the economic consequences of the  
8 war have impoverished civilians. The United Nations Office for the Coordination of  
9 Humanitarian Affairs (OCHA) estimates that over 24 million civilians require some form of  
10 humanitarian aid. Over 20 million people are food insecure and 7.4 million people are  
11 malnourished (including 2 million children and 1.1 million lactating women); less than 55% of  
12 the population has access to clean drinking water; 4.3 million people have fled their homes, and  
13 3.3 million of those who fled remain displaced; with 19.7 million people in need of health  
14 assistance and 14 million people in “acute need” of healthcare, 49% of hospitals are either  
15 partially or entirely non-functional. OCHA describes the war as “[f]our years of relentless  
16 conflict” that have “devastated the lives of millions of people,” and as the largest humanitarian  
17 crisis in the world.<sup>2</sup>

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22 <sup>1</sup> *World Digest: June 19, 2019*, WASHINGTON POST (June 19, 2019),  
23 [https://www.washingtonpost.com/national/world-digest-june-19-2019/2019/06/19/46f9d7aa-9297-11e9-b570-6416efdc0803\\_story.html?utm\\_term=.41ce1fc74dd8](https://www.washingtonpost.com/national/world-digest-june-19-2019/2019/06/19/46f9d7aa-9297-11e9-b570-6416efdc0803_story.html?utm_term=.41ce1fc74dd8) ; Sammy Magdy,  
24 *Database says 91,600 killed in Yemen fighting since 2015*, ASSOCIATED PRESS (June 10,  
25 2019), <https://www.apnews.com/b28a2bdb1b01413689e05a7204e6ea90>; *Global Conflict Tracker: Yemen*, COUNCIL ON FOREIGN RELATIONS (last visited July 11, 2019),  
<https://www.cfr.org/interactive/global-conflict-tracker/conflict/war-yemen>.

26 <sup>2</sup> United Nations Office of Humanitarian Affairs, *U.N. and Partners Seek \$4.2 Billion for Yemen*  
27 *Crisis* (Feb. 19, 2019), <https://m.reliefweb.int/report/3000634>; United Nations Office of  
28 Humanitarian Affairs, *Yemen: Crisis Overview* (last visited July 17, 2019),  
<https://www.unocha.org/yemen/crisis-overview>.

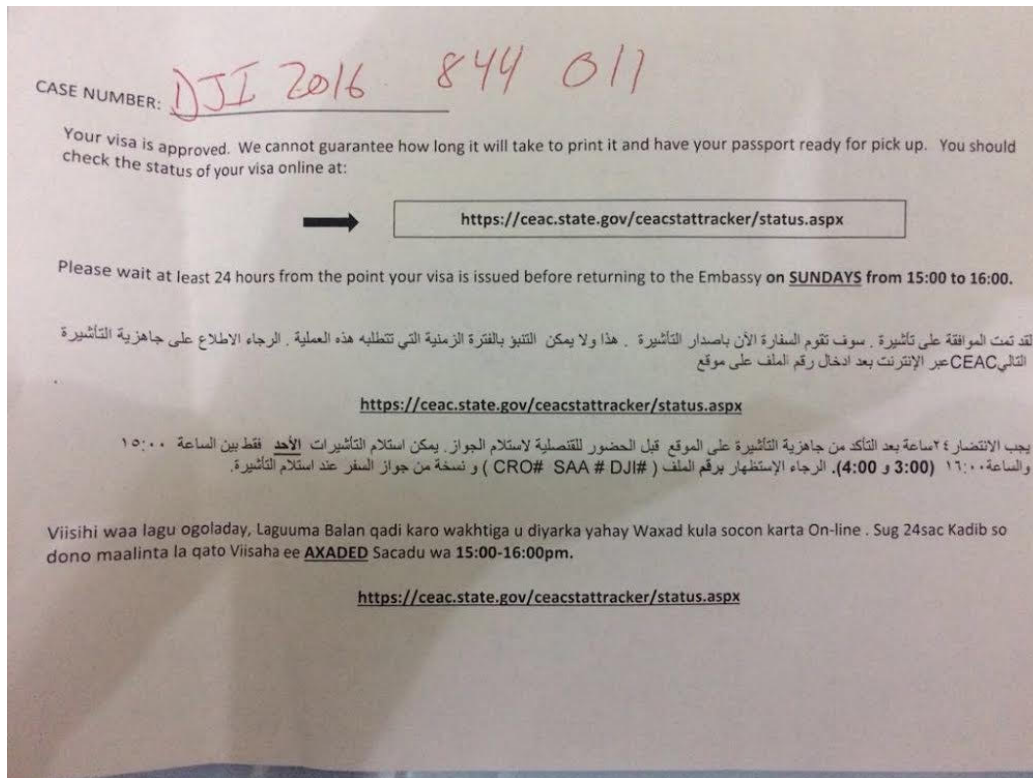
1           5.       Plaintiffs each filed I-130 petitions on behalf of Plaintiffs’ Beneficiaries—their  
2 spouses, children, or parents—seeking to bring their loved ones to the United States. Each and  
3 every one of the Plaintiffs had their applications approved by the Department of Homeland  
4 Security (“DHS”), and all Plaintiffs’ Beneficiaries were interviewed by State Department  
5 consular officers at the United States Embassy in Djibouti (the “Embassy”) between April and  
6 December of 2017.<sup>3</sup>

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8           6.       At the conclusion of the interviews, Plaintiffs and/or Plaintiffs’ Beneficiaries were  
9 told by Embassy officials that their petitions for visas had been granted. All were given a formal  
10 document from the Embassy stating, “Your visa is approved. We cannot guarantee how long it  
11 will take to print it and have your passport ready for pickup.” An example of one such document  
12 given to Plaintiffs by consular officials appears below:

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<sup>3</sup> Because of the violence in Yemen, consular services have been suspended in Sana’a and  
28 immigrant visa applications for Yemeni citizens have been transferred to the United States  
Embassy in Djibouti.



7. Each Plaintiffs' Beneficiary also surrendered his or her passport to Embassy officials so that the Embassy could undertake the ministerial act of printing out the visas, as indicated in the visa approval notices.

8. Under applicable State Department policy, the subsequent decision to approve or deny a visa following the interview (subject to narrow exceptions not applicable here) constitutes the final discretionary step in the visa adjudication process.

9. Instead of completing their non-discretionary duty to print Plaintiffs' Beneficiaries' approved immigrant visas, however, Embassy officials delayed for weeks or months and ultimately informed each Plaintiffs' Beneficiary that his or her visa had been denied pursuant to Presidential Proclamation 9645 (the "Proclamation"). The Proclamation is also commonly referred to as the "Muslim Ban" or "Travel Ban."

10. President Trump issued the Proclamation on September 24, 2017. The Proclamation sought to bar nationals from certain countries, including Yemen, from entry into the United States. However, before it took effect, the Proclamation as it applied to Plaintiffs and

1 Plaintiffs' Beneficiaries was enjoined by a United States court on the grounds that it violated the  
2 Establishment Clause and the Immigration and Naturalization Act ("INA"). While the  
3 Proclamation was enjoined as unlawful, it had no legal force, and the Embassy continued to  
4 process and approve immigrant visa applications for Yemeni citizens.

5 11. The government petitioned the Supreme Court for a stay of the injunctions against  
6 the Proclamation. The Supreme Court granted a stay on December 4, 2017, allowing the  
7 Proclamation to go into effect. The State Department subsequently announced that it would  
8 begin implementing the Proclamation on December 8, 2017.<sup>4</sup> Organizations and attorneys began  
9 obtaining reports of *en-masse* denials of visas out of the U.S. Embassy in Djibouti beginning  
10 December 17, 2017.

12 12. Despite the fact that Plaintiffs' Beneficiaries' visas were approved prior to the  
13 implementation of the Proclamation, Embassy officials—acting, on information and belief,  
14 according to instructions from President Donald Trump, Secretary Michael Pompeo (and/or his  
15 predecessors in office), and/or Secretary Kevin McAleenan (and/or his predecessors in office)—  
16 improperly and unlawfully delayed providing Plaintiffs' Beneficiaries' printed visas and refused  
17 to issue said previously approved visas after the injunction was lifted, in purported reliance on  
18 the Proclamation.

19 13. Weeks or even months after Plaintiffs' Beneficiaries were told in writing that their  
20 visas had been approved, Defendants returned the passports of most Plaintiffs' Beneficiaries  
21 without visas, and told Plaintiffs' Beneficiaries that their visas had been denied pursuant to the  
22 Proclamation. Each was given a document that stated, "This is to inform you that a consular  
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<sup>4</sup> U.S. DEP'T OF STATE, *Presidential Proclamation Fully Implemented Today*, (Dec. 8, 2017),  
<https://www.state.gov/r/pa/prs/ps/2017/12/276376.htm>.

1 officer found you ineligible for a visa under Section 212(f) of the INA, pursuant to Presidential  
2 Proclamation 9645.”

3 14. Defendants relied on the Proclamation to refuse to provide Plaintiffs’ Beneficiaries  
4 immigrant visas, despite the fact that the Proclamation states that it cannot be used to revoke  
5 previously issued visas.

6 15. Defendants’ actions were also contrary to public statements by the State  
7 Department, which stated on its website, “No visas will be revoked pursuant to [Presidential  
8 Proclamation] 9645. Individuals subject to [Presidential Proclamation] 9645 who possess a valid  
9 visa or valid travel document generally will be permitted to travel to the United States,  
10 irrespective of when the visa was issued.”<sup>5</sup>

12 16. Defendants’ actions violated the Proclamation and State Department policy, as  
13 well as clearly established law governing the issuance of visas. In order to correct their *ultra*  
14 *vires* actions, Defendants and their agents and employees must be compelled to undertake their  
15 non-discretionary duty to render the previously authorized visas to Plaintiffs’ Beneficiaries.  
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17 17. Defendants had no lawful authority—from the Proclamation or otherwise—to  
18 refuse to provide the visas granted to Plaintiffs’ Beneficiaries before the Proclamation was  
19 implemented, causing ongoing irreparable harm to Plaintiffs and their families.

20 18. Plaintiffs and their loved ones sit in legal purgatory, emotionally and financially  
21 exhausted from separation and Plaintiffs’ Beneficiaries’ seemingly indefinite bar from the United  
22 States, and diminishingly hopeful to be reunited with their families in safety in the country they  
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26 <sup>5</sup> U.S. DEP’T OF STATE, *June 26 Supreme Court Decision on Presidential Proclamation 9645*,  
27 [https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/presidential-  
28 proclamation9645.html](https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/presidential-proclamation-archive/june_26_supreme_court_decision_on_presidential_proclamation9645.html) (last visited Dec. 13, 2018).

1 call home. Plaintiffs seek an order from this Court declaring Defendants' actions unlawful and  
2 mandating that they issue Plaintiffs' Beneficiaries their lawfully approved immigrant visas.

### 3 **THE PARTIES**

4 19. Plaintiffs Hanna Dobashi; Hajer Taleb; Rashad Hizam Alamari; Yara Al Amri;  
5 Ameen Alshohatee; Fahmi Abdo Khaled Hassan; Fawwaz Ismail; Ebrahim Musleh Mohamed;  
6 Abdo Ali Mohamed; Maher Nagi Musaid; Tufaic Mohamed Nagi; Nassem Omer; and Mused Ali  
7 Riyashi are citizens or lawful permanent residents of the United States who filed I-130  
8 immigrant visa petitions on behalf of Plaintiffs' Beneficiaries, their family members abroad.

9  
10 20. Defendant Donald Trump is the President of the United States of America, and is  
11 sued in his official capacity only. President Trump issued the Proclamation and has instructed  
12 his Cabinet officials and their respective Departments to enforce its terms. President Trump is  
13 also responsible for ensuring that all officers, employees, and agents of the United States act in  
14 accordance with applicable law.

15  
16 21. Defendant Michael Pompeo is the Secretary of State, and is sued in his official  
17 capacity only. Secretary Pompeo is the highest-ranking official within Defendant the United  
18 States Department of State. Secretary Pompeo is responsible for the implementation of certain  
19 provisions of the INA relating to the issuance of visas, and is responsible for ensuring that the  
20 laws of the United States are followed in its embassies and other facilities abroad.

21  
22 22. Defendant Kevin McAleenan is the Acting Secretary of the Department of  
23 Homeland Security, and is sued in his official capacity only. Acting Secretary McAleenan is the  
24 highest-ranking official within Defendant the United States Department of Homeland Security  
25 ("DHS"). Acting Secretary McAleenan is also responsible for the implementation of the INA,  
26 and oversees United States Customs and Border Protection ("USCBP"), the agency responsible  
27 for immigration and customs at the borders and ports of entry into the United States.  
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**JURISDICTION AND VENUE**

23. This Court has subject-matter jurisdiction of this action pursuant to 28 U.S.C. section 1331, as Plaintiffs’ claims arise under the Constitution of the United States and the laws of the United States.

24. This Court further has subject-matter jurisdiction of Plaintiffs’ request for injunctive relief as to Defendants Trump, Pompeo, and McAleenan pursuant to 28 U.S.C. section 1361.

25. Venue is proper in this judicial district pursuant to 28 U.S.C. section 1391(e)(1) because one or more of the Plaintiffs reside in this judicial district and no real property is involved in this action.

26. This action should be assigned to the San Francisco/Oakland Division because Plaintiffs Hanna Dobashi and Hajer Taleb reside in Alameda County. *See* N.D. Cal. Local Rules 3-2(c), (d).

**STATEMENT OF FACTS**

(Background Allegations Common to All Plaintiffs)

27. The visa process relevant to this case begins with the filing of an I-130 Petition for Alien Relative with the U.S. Customs and Immigration Service (“USCIS”) by a U.S. citizen or lawful permanent resident. The petitioner must first establish that the beneficiary has a qualifying family relationship. *See* 8 U.S.C. 1151(b)(2)(A)(i) (defining immediate relatives of United States Citizens); *see also* 8 U.S.C. 1153(a)(2) (spouses and unmarried children of lawful permanent residents). Once USCIS approves the classification of the beneficiary, it refers the case to the National Visa Center (“NVC”), which proceeds with the next phase of the processing of the visa application.

28. The petitioner must then pay a fee and submit several supporting documents to complete the application. Once this process is complete, the beneficiary becomes eligible for an

1 interview. *See* 9 FAM 504.5-6. The NVC provides the beneficiary with an appointment for an  
2 interview at an overseas consular office after the petitioner has properly submitted all necessary  
3 documents, paid all the necessary fees, and the beneficiary has undergone a medical exam. *See* 9  
4 FAM 504.4-3(A)(3) (Medical Screening Forms); 9 FAM 504.4-4 (Supporting Documents).

5         29. According to the State Department, the interview with a consular officer is the last  
6 stage of the immigrant visa adjudication process, which will result in a decision on the visa  
7 application. The State Department’s website explains that “[a]t the end of your immigrant  
8 visa interview at the U.S. Embassy or Consulate, the consular officer will always inform you  
9 whether your visa application is approved or denied.”<sup>6</sup>  
10

11         30. After the interview, during which the consular officer has the opportunity to  
12 question the applicant and review the application materials, the consular officer has a  
13 nondiscretionary duty either to issue the visa or to refuse it. A consular officer cannot  
14 temporarily refuse, suspend, or hold the visa for future action. If the consular officer refuses the  
15 visa, he or she must inform the applicant of the provisions of law on which the refusal is based,  
16 and of any statutory provision under which administrative relief is available. *See* 9 FAM 504.1-  
17 3(g) & 504.11 (refusal procedure); 9 FAM 301.5 (waiver relief).  
18

19         31. In some cases, a consular officer may inform individuals that their visa petition  
20 requires the issuance of a Security Advisory Opinion (“SAO”). Even when an SAO is required,  
21 the consular officer must nevertheless refuse the visa. Indeed, there are “no exceptions to the  
22 rule that once a visa application has been properly completed and executed before a consular  
23 officer, a visa must either be issued or refused.” 9 FAM 504.1-3(i)(1)(c). In the event of a  
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27 <sup>6</sup> U.S. DEP’T OF STATE, *After the Interview*, [https://travel.state.gov/content/travel/en/us-](https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/interview/after-the-interview.html)  
28 [visas/immigrate/the-immigrant-visa-process/interview/after-the-interview.html](https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/interview/after-the-interview.html) (last visited  
Dec. 13, 2018).

1 refusal, even if due to the need for an SAO, the consular officer must still provide notice to the  
2 applicant that his or her visa has been refused either orally or in writing. 9 FAM 504.11-  
3 3(A)(1)(a). There are only three exceptions to this notice requirement, all of which contemplate  
4 explicit instructions from the Department of Justice. 9 FAM 504.11-3(A)(1)(c).

5 32. State Department procedure dictates that an immigrant visa that has been  
6 approved may only be thereafter revoked in three “rare circumstances”: (i) if the visa was  
7 procured by “fraud, a willfully false or misleading representation, the willful concealment of a  
8 material fact, or other unlawful means,” (ii) if the State Department later obtains factual  
9 information establishing that the alien was ineligible to receive the particular visa at the time it  
10 was issued, or (iii) if the State Department “establish[es] that, subsequent to the issuance of the  
11 visa, a ground of ineligibility has risen in the alien’s case.” 9 FAM 504.1-4(A)(1)(2).

13 33. All Plaintiffs are United States citizens or lawful permanent residents of Yemeni  
14 descent. They seek to help their family members, Plaintiffs’ Beneficiaries, escape the  
15 devastating war in Yemen and to reunite with their families in the United States.

17 34. Beginning as early as 2001, all Plaintiffs started the process to bring their relatives  
18 to United States. Each filed an I-130 immigrant petition or petitions for Plaintiffs’ Beneficiaries,  
19 their family members abroad, and all Plaintiffs’ Beneficiaries received notice of their interview  
20 dates at the Embassy before the Proclamation was issued.

21 35. All Plaintiffs’ Beneficiaries appeared for visa interviews at the Embassy between  
22 April and December of 2017 and, following the completion of those interviews, were informed,  
23 pursuant to the consular officials’ non-discretionary duties, of a decision on their visas: in each  
24 case, they were told that their visas were approved.

26 36. At the end of each of their interviews, all Plaintiffs’ Beneficiaries also received a  
27 document from the Embassy that stated, “**Your visa is approved.** We cannot guarantee how  
28 long it will take to print it and have your passport ready for pick up,” (emphasis added). Each

1 Plaintiff's Beneficiary surrendered his or her passport to the Embassy in order to be issued the  
2 printed visa.

3 37. Despite the fact that their visa applications were approved pursuant to law, none  
4 of Plaintiffs' Beneficiaries were actually provided their immigrant visas. Instead, the Embassy  
5 held their passports for a period of time—ranging from one week to indefinitely—and then  
6 informed Plaintiffs' Beneficiaries that their visa applications had been denied pursuant to the  
7 Proclamation.

8 38. To date, the Embassy still has not issued Plaintiffs' Beneficiaries' immigrant  
9 visas.

10 39. The protracted and indefinite limbo that Plaintiffs' Beneficiaries have experienced  
11 while forced to remain outside of the United States, often separated from their families and  
12 communities, has taken a heavy and painful financial, emotional, and physical toll on Plaintiffs  
13 and their families.

### 14 **The Proclamation**

15 40. On January 27, 2017, Defendant President Trump issued Executive Order 13769,  
16 Protecting the Nation from Foreign Terrorist Entry into the United States ("First Travel Ban").  
17 The First Travel Ban prohibited the entry of nationals of seven Muslim-majority countries for 90  
18 days pending a worldwide review to be conducted by the Secretary of Homeland Security,  
19 suspended the entire Refugee Admissions Program for 120 days, and indefinitely barred entry of  
20 all Syrian refugees. Exec. Order 13,769, 82 Fed. Reg. 8977 (Jan. 27, 2017). Within a week,  
21 federal courts around the country enjoined the government from enforcing the First Travel Ban.  
22 *See, e.g.* Washington v. Trump, 847 F.3d 1151, 1161–64 (9th Cir. 2017) (per curiam),  
23 reconsideration en banc denied, 853 F.3d 933 (9th Cir. 2017).

24 41. On March 6, 2017, President Trump issued Executive Order 1378 (the "Second  
25 Travel Ban"). Again, federal courts unanimously barred enforcement of this order. Int'l Refugee  
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28

1 Assistance Project v. Trump, 857 F.3d 554 (4th Cir.), as amended (May 31, 2017), as amended  
2 (June 15, 2017), and vacated and remanded sub nom Trump v. Int'l Refugee Assistance, 138 S.  
3 Ct. 353 (2017); Hawaii v. Trump, 859 F.3d 741 (9th Cir.), cert. granted sub nom Trump v. Int'l  
4 Refugee Assistance Project, 137 S. Ct. 2080 (2017), and vacated and remanded, 138 S. Ct. 377  
5 (2017). The Supreme Court granted certiorari in both the Fourth and Ninth circuit cases and left  
6 the injunctions in place pending review, except as to persons who lacked a “credible claim of a  
7 bona fide relationship with a person or entity in the United States.” Trump v. IRAP, 137 S. Ct.  
8 2080, 2088 (2017).  
9

10 42. On September 24, 2017, President Trump issued the third revision of the travel  
11 ban – the Proclamation at issue in this case. 82 Fed. Reg. 45161 (2017). The Proclamation  
12 expands on the previous executive orders by applying entry restrictions to nationals of eight  
13 states, and by applying the restrictions for an indefinite amount of time. For Yemeni citizens,  
14 Section 2(g)(ii) of the Proclamation restricts entry of nationals seeking immigrant visas and  
15 nonimmigrant business or tourist visas.  
16

17 43. The Proclamation provided certain protections for individuals who were granted  
18 visas before the Proclamation took effect. Section 3(ii) of the Proclamation stated that the  
19 restrictions on entry did not apply to individuals who had already been issued visas before the  
20 effective date of the Proclamation. Additionally, Section 6(c) of the Proclamation stated that no  
21 immigrant visa issued before the effective date of the Proclamation “shall be revoked pursuant to  
22 this Proclamation.”  
23

24 44. On October 17, 2017, before the provisions of the Proclamation applicable to  
25 Plaintiffs’ Beneficiaries could take effect, the U.S. District Court for the District of Hawaii  
26 issued a Temporary Restraining Order prohibiting the enforcement of certain provisions of the  
27 Proclamation, including those pertaining to Yemeni citizens. Hawaii v. Trump, 265 F.Supp.3d  
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1 1140 (D. Haw.), aff'd in part, vacated in part, 878 F.3d 662 (9th Cir. 2017), cert. granted, 138 S.  
2 Ct. 923, (2018), rev'd and remanded, 138 S. Ct. 2392, 201 L. Ed. 2d 775 (2018).

3 45. The Government appealed, and on December 4, 2018, the Supreme Court issued a  
4 stay of the injunction and allowed the Proclamation to go into full effect pending the ultimate  
5 outcome of the appeal. *Trump v. Hawaii*, 138 S. Ct. 542 (2017). The State Department  
6 announced that it would begin implementing the Proclamation shortly thereafter, on December 8,  
7 2017.

8  
9 46. On June 26, 2018, the Supreme Court issued a judgment vacating the injunction  
10 and upholding the Proclamation. *Trump v. Hawaii*, 138 S. Ct. 2392 (2018). The Proclamation  
11 remains in effect for Yemeni citizens currently seeking immigrant visas.

12 47. As a result of the injunction and delayed implementation, the Proclamation had no  
13 legal force as applicable to Plaintiffs' Beneficiaries prior to December 8, 2018. Furthermore, by  
14 its terms, it could not be a basis to revoke or deny a visa that was lawfully granted.  
15

16 ***Plaintiff Hanna Dobashi***

17 48. Hanna Dobashi is a United States citizen and a student at Merritt College studying  
18 nursing. She resides in Oakland, California.

19 49. Dobashi met her husband, Plaintiff's Beneficiary Sagr Ali Ahmed Algumaie, in  
20 2008. They married on September 25, 2014. On May 9, 2016, Dobashi filed an I-130 petition  
21 seeking a visa for her husband to enable them to live together and start a family in the United  
22 States. After attending an in-person interview with USCIS, Dobashi was informed that her  
23 petition was approved.  
24

25 50. Dobashi and Algumaie made arrangements for Algumaie to attend his immigrant  
26 visa interview on October 18, 2017 at the Embassy. Algumaie faced difficulties making his  
27 travel arrangements; the security situation in Yemen required him to travel from his village to  
28

1 Aden, in Yemen, and from Aden to Sudan. Due to Djibouti's visa requirements, Algumaie was  
2 forced to stay in Sudan for some time before arriving in Djibouti on September 27, 2017.

3 51. Algumaie attended his immigrant visa interview on October 18, 2017 at the  
4 Embassy. At the end of his interview, the consular officer informed him that his visa was  
5 approved and provided him with a notice stating that his visa was approved, identifying his  
6 redress number, DJI2016844011. **Exhibit 1.** The consular officer then took Algumaie's  
7 passport and informed him that his visa would be printed soon.  
8

9 52. Algumaie understood that his request for a visa had been approved and that no  
10 further steps remained in the application process, as Algumaie's passport was taken by the  
11 Embassy and he was provided paperwork stating plainly that his visa had been approved.

12 53. Algumaie remained in Djibouti alone for six months without receiving any  
13 information from the Embassy about the status of his visa. In the United States, Dobashi  
14 regularly sought updates about his case and contacted her congressperson seeking further  
15 information. Her efforts to obtain more information about the status of Algumaie's visa were  
16 unsuccessful. Shortly thereafter, due to the high cost of living in Djibouti, Algumaie relocated to  
17 Qatar to seek employment while waiting for his visa to be printed.  
18

19 54. On June 3, 2018, the Embassy issued Algumaie a refusal notice stating that he had  
20 been denied a visa pursuant to the Proclamation and that a waiver would not be granted in his  
21 case. **Exhibit 2.**  
22

23 55. On July 24, 2018, Dobashi emailed the Embassy to inquire about any change in  
24 Algumaie's status. The next day, the Embassy responded that a waiver was being considered in  
25 Algumaie's case and that his status would "switch from 'Administrative Processing' to 'Issue'  
26 when the waiver has finally been approved." On July 25, 2018, Algumaie was also issued a  
27 "waiver reconsideration" notice stating that he was being considered for a waiver under the  
28 provisions of the Proclamation. **Exhibit 3.**







1           71.     In 1997, Al Amari married his wife, Plaintiff's Beneficiary Arwa Anam Musleh  
2 Anam. Together they have three sons and one daughter, Hisham Alamari, H.A., M.A., and Y.A.  
3 After the war broke out in Yemen, Al Amari became greatly concerned about his family's safety  
4 in the country and relocated them to Jordan.

5           72.     In 2016, Al Amari filed I-130 petitions seeking to bring his wife and children to  
6 the United States. USCIS approved all of the petitions. The NVC then scheduled his wife and  
7 children for an immigrant visa interview at the Embassy in August 2017. Al Amari spent nearly  
8 \$10,000 to arrange for his family's travel and accommodations in Djibouti for the interview.

9           73.     Al Amari's family attended their immigrant visa appointment together. At the  
10 conclusion of the interview, the consular officer informed Al Amari and his family that the visa  
11 applications were approved. The consular officer provided a single approval notice, which  
12 identified Anam and the two children by their redress numbers, DJI2016756008 (Anam),  
13 DJI2016791021 (H.A.), and DJI2016791024 (Hisham Rashaad Hizam Alamari), and stated that  
14 their visas had been approved. **Exhibit 6.** As the two youngest children (M.A. and Y.A.) were  
15 eligible for U.S. Citizenship, they obtained their passports.  
16

17           74.     Anam understood that her request for a visa had been approved and that no further  
18 steps remained in the application process, as Anam's and her eldest children's passports were  
19 taken by the Embassy and they were provided paperwork stating plainly that their visas had been  
20 approved. On August 20, 2017, less than a week after their interview, the two children received  
21 their printed visas, but Anam did not.  
22

23           75.     On January 11, 2018, the Embassy notified Anam that her visa application had  
24 been refused pursuant to the Proclamation.  
25

26           76.     Due to financial hardship, in October 2017 Al Amari returned to the United States  
27 in order to work and financially support his family. Hisham, the couple's oldest son, traveled  
28 with his father. H.A., the second oldest, followed shortly thereafter, as soon as Al Amari was

1 able to save enough money for his flight. Hisham and H.A. had to travel to the United States,  
2 leaving their mother and siblings behind, so that their visas would not expire.

3 77. Anam remained in Djibouti with their two youngest children, who both have  
4 United States passports.

5 78. The financial hardship, stress, and separation from her family have caused Anam  
6 to become ill several times, and have caused significant strain on her relationships with her  
7 family.

8 79. In total, Al Amari has spent nearly \$100,000 on travel, accommodations, and  
9 living expenses to support his family during the visa application process.

10 80. On May 30, 2018, the Embassy issued Anam an “updated refusal letter”  
11 informing her that she was being considered for a waiver. **Exhibit 7.**

12 81. To date, Anam has not been issued a visa or granted a waiver.

13  
14 ***Plaintiff Yara Al Amri***

15 82. Yara Al Amri<sup>7</sup> is a United States citizen. She resides in Michigan with her  
16 mother, husband, and four children, where she works at a local preschool and is studying for her  
17 General Education Diploma.

18 83. In 2014, due to the escalating civil war in Yemen, Yara Al Amri filed an I-130  
19 petition seeking to allow both of her parents, Plaintiff’s Beneficiaries Neamh Ahmed Ali  
20 Alammari and Abdulwahab Ali Mohamed Al Amri, to join her family and their grandchildren in  
21 the United States.

22 84. In 2015, Yara Al Amri attended an interview at USCIS’s local office. Following  
23 the interview, Yara Al Amri was informed that both petitions were approved. On June 28, 2017,  
24  
25  
26

27 \_\_\_\_\_  
28 <sup>7</sup> Her name is sometimes spelled Alamri. “Al Amri” is the spelling used on her U.S. Certificate  
of Citizenship.

1 the NVC informed Yara Al Amri that her father and mother were scheduled for an immigrant  
2 visa interview at the Embassy on August 8, 2017.

3 85. Yara Alamri made arrangements for her parents to travel to Djibouti for their visa  
4 interview. Due to the time required to complete their medical examinations, however, Yara Al  
5 Amri had to reschedule the visa interview for August 17, 2017.

6 86. Yara Al Amri's parents attended their immigrant visa interview together on  
7 August 17, 2017 at the Embassy. At the conclusion of the interview, the consular officer  
8 informed both her mother, Alammari, and her father, Abdulwahab Al Amri, that their visa  
9 applications were approved. The consular officer provided a single approval notice stating that  
10 their visas were approved, identifying both Abdulwahab Al Amri and Alammari's redress  
11 numbers as DJI2016805022 and DJI 2016836012, respectively. **Exhibit 8.**

12  
13 87. The consular officer took both of Yara Al Amri's parents' passports to print the  
14 issued visas. At that point, Yara Al Amri and her parents understood that their request for visas  
15 had been approved and that no further steps remained in the application process, as both parents'  
16 passports were taken by the Embassy and they were provided paperwork stating plainly that their  
17 visas had been approved.  
18

19 88. That same day, Yara Al Amri checked the status of her parents' visas on the State  
20 Department website, as instructed by the approval notice. Yara Al Amri's mother's visa was  
21 listed as "issued," but her father's was not. Her mother went to the Embassy and picked up her  
22 visa and inquired about her husband's status. The Embassy responded that they would get back  
23 to her.  
24

25 89. After approximately one month, Yara Al Amri's mother traveled to the United  
26 States. Abdulwahab Al Amri remained in Djibouti for six months waiting for the Embassy to  
27 print his issued visa. On December 17, 2017, the Embassy contacted Abdulwahab Al Amri and  
28

1 issued him a refusal letter informing him that his visa application had been denied pursuant to the  
2 Proclamation and informing him that a waiver would not be granted in his case. **Exhibit 9.**

3 90. Yara Al Amri contacted her United States Senator, Gary C. Peters, for assistance.  
4 On September 18, 2018, Senator Peters' office responded to Yara Al Amri's inquiry and  
5 informed her that her father's visa "was refused appropriately pursuant to the Proclamation  
6 9645," but that "the U.S. Embassy in Djibouti has recommended that this case be considered for  
7 a waiver to the [P]roclamation."

8  
9 91. Abdulwahab Al Amri was forced to return to Yemen, where he is still waiting for  
10 the Embassy to print his previously-approved visa or grant him a waiver. Yara Al Amri fears for  
11 his life on a daily basis given the protracted war.

12 92. Yara Al Amri has spent more than \$20,000 on travel, accommodations, and  
13 expenses related to her parents' visa applications.

14 93. To date, Abdulwahab Al Amri has not been issued a visa or granted a waiver.

15  
16 ***Plaintiff Ameen Alshohatee***

17 94. Ameen Alshohatee is a United States citizen. He received his citizenship through  
18 his father, who came to the United States in the 1950s. Alshohatee resides in New York City,  
19 New York, where he works at a local deli.

20 95. Ameen Alshohatee married his wife, Plaintiff's Beneficiary Kana Ahmed Saleh  
21 Alshohatee, in Yemen in 1997. They have three children together: Soltan Ameen-Ali  
22 Alshohatee, M.A.A., and Safwan Ameen Alshohatee. Soltan and Safwan currently reside in  
23 New York, while M.A.A. lives with her mother in Djibouti. All three children are United States  
24 citizens.  
25

26 96. On December 28, 2015, Ameen Alshohatee filed an I-130 petition seeking a visa  
27 to allow his wife to join him in the United States. He attended an in-person interview with  
28 USCIS on February 1, 2017. Following the interview, he provided additional documents, as

1 requested, including travel logs to Yemen, additional copies of his marriage certificate, and  
2 documents related to DNA testing. Ameen Alshohatee was informed on March 8, 2017 that his  
3 petition had been approved.

4 97. Ameen Alshohatee traveled to Yemen and remained with his wife for ten months  
5 before her interview in Djibouti. During this time, Ameen Alshohatee witnessed the  
6 circumstances of the war in Yemen. He regularly heard the sound of explosions and the family  
7 often did not leave their home out of fear for their safety.

8  
9 98. In November 2017, Ameen Alshohatee and his family traveled from Yemen to  
10 Djibouti to attend his wife's visa interview. From Yemen, they first traveled to Egypt, where  
11 they waited three weeks to obtain the visas necessary to enter Djibouti. At this time, Ameen  
12 Alshohatee returned to the United States in order to support his family financially. His wife and  
13 two younger children continued on to Djibouti for his wife's interview.

14 99. The interview in Djibouti was scheduled for November 9, 2017. The Embassy  
15 rescheduled the interview for December 10, 2017 after Kana Alshohatee and her children arrived  
16 in Djibouti. She appeared as scheduled, and received a notice at the conclusion of the interview,  
17 plainly stating that her visa had been approved, and identifying her redress number,  
18 DJI2017566097. **Exhibit 10.**

19  
20 100. The Embassy took Kana Alshohatee's passport and told her that they would print  
21 her visa within the week. Kana Alshohatee understood that the request for a visa had been  
22 approved and that no further steps remained in the application process, as her passport was taken  
23 by the Embassy and she was provided paperwork stating plainly that her visa had been approved.

24  
25 101. On December 20, 2017, the Embassy returned Kana Alshohatee's passport to her,  
26 along with a notice that stated that her visa had been denied pursuant to the Proclamation.

27 **Exhibit 11.**



1           111. Despite repeated attempts to follow up on the status of his petition, Fahmi Hassan  
2 did not receive an interview date for his wife, daughter, and son until September 28, 2017, when  
3 his attorney received a letter stating that Fahmi Hassan's family's interview was scheduled for  
4 November 21, 2017 at the U.S. Embassy in Djibouti.

5           112. Fahmi Hassan and his family travelled to Djibouti to attend the interview at the  
6 Embassy. Alawdi was pregnant at the time of their interview. At the conclusion of the  
7 interview, the consular officer told Hassan that the visas for his wife, daughter, and son were  
8 approved and provided him with a notice stating that the visas were approved which identified  
9 Alawdi's redress number, DJI2016766048. **Exhibit 12.**

11           113. The consular officer took Alawdi's passport and those of Fahmi Hassan's  
12 children, and informed them that their visas would likely be issued within two weeks. Alawdi  
13 and her children understood that their requests for visas had been approved and that no further  
14 steps remained in their application process, as Alawdi's and her children's passports were taken  
15 by the Embassy and they were provided paperwork stating plainly that their visas had been  
16 approved.  
17

18           114. Fahmi Hassan and Alawdi heard nothing further from the Embassy for nearly two  
19 months. Around January of 2018, Fahmi Hassan decided to return to the United States to  
20 continue working to support his family, as their funds were depleting while waiting for the  
21 Embassy to issue their visas. Alawdi and the children remained in Djibouti awaiting the printing  
22 of their visas.  
23

24           115. Around the same time, Alawdi learned from a neighbor that the Embassy had  
25 begun returning passports without visas to people who had previously been told their visas were  
26 approved. Alawdi, who was pregnant at the time, became so distraught upon hearing this news  
27 that she was hospitalized for over two weeks.  
28



1           116. Shortly thereafter, in early January 2018, Fahmi Hassan received a call from the  
2 Embassy informing him that Alawdi would need to return to the Embassy on January 8, 2018.  
3 When Hassan and his family went to the Embassy as instructed, they were told their visas had  
4 been denied due to the Proclamation, their passports were returned, and they were issued a denial  
5 letter. **Exhibit 13.**

6           117. Fahmi Hassan could not afford the high cost of living in Djibouti, so he was  
7 forced to move his wife and children back to Yemen in January 2018, to a village close to the  
8 war zone. After accompanying them to Yemen, he returned to the United States on January 18,  
9 2018 in order to continue supporting his family financially.

11           118. Fahmi Hassan's third child, M.F.A.K.H., was born that year in Yemen. Fahmi  
12 Hassan could not be there for her birth. She was subsequently added to his pending I-130  
13 petition.

14           119. On August 9, 2018, Fahmi Hassan sent a letter to the Embassy requesting a  
15 waiver for his family's visa petitions. He received a response on August 12, 2018, stating that  
16 the Embassy was recommending that Alawdi be considered for a waiver.

18           120. Sometime thereafter, Fahmi Hassan checked the online status of his family's  
19 applications, and saw that his wife's application was listed as undergoing administrative  
20 processing, while the applications for both his daughter and son were listed as refused.

21           121. Eventually, after submitting all of the information requested by the State  
22 Department for his youngest daughter's application, M.F.A.K.H.'s petition was scheduled for an  
23 interview at the Embassy on December 30, 2018. The family travelled to Djibouti from Yemen  
24 on December 20, 2018.

26           122. At the conclusion of the interview on December 30, 2018, the Embassy requested  
27 additional documentation and informed Fahmi Hassan they were confident that his family would  
28 receive the visas shortly. Fahmi Hassan provided the documents as requested.





1           137. Ebrahim Mohamed married his wife, Plaintiff's Beneficiary Eman Mohammed  
2 Ali Al-Baadani, in Yemen on October 27, 2008. He has three children with Al-Baadani:  
3 E.E.M.M., B.E.M.M., and O.E.M.M.

4           138. On September 28, 2015, Ebrahim Mohamed filed an I-130 petition seeking a visa  
5 to allow his wife to join him in the United States. After he submitted all of the information  
6 requested, Al-Baadani was scheduled for an interview at the Embassy on October 15, 2017.

7           139. Ebrahim Mohamed travelled to Yemen to accompany his family on their journey  
8 from Yemen to Djibouti. Ebrahim Mohamed and his family travelled to Sayoon in Yemen, then  
9 to Egypt on July 2, 2017. Once they arrived in Egypt, the family applied for visas to enter  
10 Djibouti, which took five days to be processed and issued. The journey from Yemen to Djibouti  
11 lasted over two weeks and cost more than \$10,000.

12           140. The family reached Djibouti on October 9, 2017, and Al-Baadani was required to  
13 postpone her interview at the Embassy. It was re-scheduled for November 14, 2017.

14           141. Ebrahim Mohamed and Al-Baadani attended the interview at the Embassy on  
15 November 14, 2017. At the conclusion of the interview, the consular officer told Al-Baadani  
16 that her visa was approved and provided her with an approval slip stating that her visa was  
17 approved, which identified her redress number, DJI2016756020. **Exhibit 16.** The consular  
18 officer also took Al-Baadani's passport.

19           142. Al-Baadani understood that her request for a visa had been approved and that no  
20 further steps remained in the application process, as Al-Baadani's passport was taken by the  
21 Embassy and she was provided paperwork stating plainly that her visa had been approved.

22           143. In December 2017, the couple's children, E.E.M.M. and B.E.M.M., were issued  
23 United States passports. The family remained in Djibouti awaiting Al-Baadani's visa.

24           144. On February 1, 2018, Ebrahim Mohamed called the Embassy, asking that they  
25 return his wife's passport. Al-Baadani was six months pregnant at the time and needed urgent  
26  
27  
28

1 medical care. Al-Baadani was unable to find adequate medical care in Djibouti and needed to  
2 travel to Egypt immediately to receive the care she needed. The Embassy returned Al-Baadani's  
3 passport on March 6, 2018 and issued a letter stating that her application for a visa had been  
4 denied due to the Proclamation and that she would not be granted a waiver. **Exhibit 17.**

5 145. The family left Djibouti on March 11, 2018 for Egypt. Al-Baadani gave birth to  
6 their third son, O.E.M.M. in 2018 in Cairo. Ebrahim Mohamed left Egypt on October 8, 2018 to  
7 return to the United States so that he could work to provide for his family. Al-Baadani left Egypt  
8 with her son O.E.M.M. on April 28, 2019 and returned to Sana'a, Yemen.

9 146. In July 2018, Ebrahim Mohamed's brother accompanied Ebrahim Mohamed's  
10 sons, E.E.M.M. and B.E.M.M., from Egypt to the United States so that they could enroll in  
11 school. E.E.M.M. and B.E.M.M. currently reside in Brooklyn, New York, with their  
12 grandmother, because Ebrahim Mohamed works long hours and is unable to care for them. They  
13 attend elementary school in Brooklyn.

14 147. In both Djibouti and Egypt, Ebrahim Mohamed spent upwards of \$4,000 a month  
15 on housing and other expenditures for his family.

16 148. On May 30, 2018, Al-Baadani was issued an "updated refusal letter" stating that  
17 she was being considered for a waiver. **Exhibit 18.**

18 149. To date, Al-Baadani has not been issued a visa or granted a waiver.

19  
20  
21 ***Plaintiff Abdo Ali Mohamed***

22 150. Abdo Ali Mohamed is a United States citizen who resides in Buffalo, New York.

23 151. On July 16, 2001, Abdo Ali Mohamed filed an I-130 petition seeking a visa for  
24 his son, Mohamed Abdo Ali Mohamed, and his son's family, to join him in the United States.  
25 Nine years later, on May 20, 2010, Abdo Ali Mohamed was informed that his petition was  
26 approved.  
27  
28

1           152.   Abdo Ali Mohamed's son, Mohamed Abdo Ali Mohamed, married Thikra Nagi  
2 Abdulla Alqasmi in Yemen on September 24, 1986. The couple has six children: Emad  
3 Mohamed Abdo Mohamed, Lamia Mohamed Abdo, Ammar Mohamed Abdo Mohamed,  
4 Mayada Mohamed Abdo Mohamed, Omar Mohamed Abdo Mohamed, and Ghada Mohamed  
5 Abdo.

6           153.   In July 2015, Abdo Ali Mohamed requested that the family's case be transferred  
7 from Egypt to Malaysia as travel to Egypt was virtually impossible during the war. After  
8 submitting all of the information requested, Mohamed Abdo Ali Mohamed and his family were  
9 finally scheduled for an interview at the Embassy in Malaysia on September 4, 2015.  
10

11           154.   In anticipation of the interview, Mohamed Abdo Ali Mohamed and his family  
12 travelled from Yemen to Malaysia on May 20, 2015. The trip was particularly difficult given  
13 active hostilities in Yemen. Mohamed Abdo Ali Mohamed and his family travelled to the Saudi  
14 Arabian border to the Altwaal port of entry. Travel by land to the border took a full day. There,  
15 they stayed for an additional three days. Due to border closures, the family travelled to Hodeida,  
16 to the Al-Mukha sea-port, where they boarded commercial ships to travel to Djibouti. The travel  
17 from Altwaal to Djibouti took approximately four days. Once in Djibouti, the family flew to  
18 Malaysia.  
19

20           155.   At his interview in Malaysia, Mohamed Abdo Ali Mohamed was informed that  
21 his family's visas were approved. A few days later, however, the Embassy called him and  
22 informed him that there was an issue related to his last name as it appeared in two different  
23 documents, and that that he would need to address this issue with USCIS before he could receive  
24 the visas. The official also informed him that his visa would still be there upon resolving the  
25 issue with USCIS.  
26

27           156.   His family remained in Malaysia for six months, spending almost \$4,000 a month  
28 on rent and living expenses.

1           157.   Mohamed Abdo Ali Mohamed waited approximately nine months for USCIS to  
2 correct their records. During this time, his family's Malaysian visas expired.

3           158.   On November 17, 2015, Mohamed Abdo Ali Mohamed and his children traveled  
4 to Jordan while still waiting for USCIS to correct their records. While in Jordan, Mohamed  
5 Abdo Ali Mohamed was asked to complete a DNA examination on May 16, 2016. His father  
6 was also required to complete an examination. In Jordan, the family spent approximately \$3,500  
7 a month on lodging and living expenses.

8           159.   In July 2016, the family traveled back to Yemen, where they remained for nine  
9 months. Finally, in May 2017, Mohamed Abdo Ali Mohamed received an e-mail from the  
10 Embassy in Djibouti informing him that he had been scheduled for a new interview on July 5,  
11 2017.

12           160.   At the conclusion of the interview, the consular official told Mohamed Abdo Ali  
13 Mohamed that his visa was approved and provided him with a notice stating that the visa was  
14 approved and identifying his redress number, SAA2010640018. **Exhibit 19.**

15           161.   The consular officer took the family's passports. Mohamed Abdo Ali Mohamed,  
16 Alqasmi, and their children understood that their request for visas had been approved and that no  
17 further steps remained in the application process, as their passports were taken by the Embassy  
18 and they were provided paperwork stating plainly that their visas had been approved.

19           162.   In November 2017, Mohamed Abdo Ali Mohamed was asked to complete a new  
20 medical examination as the old examination had expired. Mohamed Abdo Ali Mohamed and his  
21 entire family obliged and submitted new medical documents three times over the course of their  
22 stay in Djibouti.

23           163.   On January 2, 2018, the Embassy returned the family's passports and provided  
24 Mohamed Abdo Ali Mohamed with a letter stating that his application for a visa has been denied  
25 due to the Proclamation and that he would not be granted a waiver. **Exhibit 20.**





1 Djibouti on October 23, 2017. Maher Musaid arrived in Djibouti on October 16, 2017 from the  
2 United States to support his wife through the interview process. The journey to Djibouti cost  
3 more than \$7,000.

4 173. Maher Musaid, Aldakash, and their son attended their interview at the Embassy  
5 on November 29, 2017. At the conclusion of the interview, the consular officer informed  
6 Aldakash and R.M.N.K.M. that their visas were approved, and provided them with a document  
7 stating that their visas were approved and identifying their redress numbers, DJI2017593030 and  
8 DJI2017593031. **Exhibit 21.**

9  
10 174. The consular officer also took Aldakash's and R.M.N.K.M.'s passports to provide  
11 the printed visas. Aldakash and R.M.N.K.M. understood that their request for visas had been  
12 approved and that no further steps remained in the application process, as their passports were  
13 taken by the Embassy and they were provided paperwork stating plainly that their visas had been  
14 approved.

15  
16 175. On December 18, 2017, Maher Nagi Khader Musaid travelled back to the United  
17 States to continue working and financially support his family while his wife and son remained in  
18 Djibouti.

19 176. On December 28, 2017, Aldakash and R.M.N.K.M. each received letters stating  
20 that their applications for a visa had been denied due to the Proclamation and that they would not  
21 be granted a waiver. **Exhibits 22, 23.**

22 177. On January 26, 2018, Aldakash and R.M.N.K.M. returned to Yemen.

23  
24 178. On May 23, 2018, Aldakash was issued an "updated refusal letter" stating that she  
25 was being considered for a waiver under the provisions of the Proclamation.

26 179. In January 2019, the Embassy informed R.M.N.K.M. that the Embassy was  
27 prepared to issue his visa, and requested that he again provide his passport to the Embassy and  
28 that he complete an updated medical examination. Aldakash did not receive a similar notice.





1           196. In March 2015, Omer travelled back to the United States to escape the escalating  
2 violence in Yemen. She was pregnant at the time. Months after her arrival, she gave birth to her  
3 first daughter, J.H.B., without her husband present.

4           197. On May 16, 2016, Omer filed an I-130 petition seeking a visa for her husband to  
5 join her in the United States. Since he could not come to the United States while the application  
6 was pending, Omer returned to Yemen to be with her husband and so that he could meet their  
7 daughter. She stayed in Yemen for approximately six months, from August 2016 to February  
8 2017, before receiving a letter informing her of her interview date with USCIS in New York.  
9

10           198. Omer completed her interview with USCIS in New York in March 2017. She  
11 stayed in New York for several weeks after the interview, before traveling back to Yemen again  
12 to be with her husband. Omer was concerned about raising her daughter as a single mother in  
13 the United States without the help of her husband.

14           199. After Omer's petition was approved, Bamdhaf was scheduled for an interview at  
15 the Embassy on October 31, 2017. Prior to the interview, Omer traveled back to New York on  
16 October 21, 2017 to find an apartment and prepare for her husband's arrival.  
17

18           200. Bamdhaf travelled to Djibouti ten days before his interview to prepare his medical  
19 records. It was a difficult journey from Yemen to Djibouti because there were no available  
20 flights. Bamdhaf had no other option but to take a boat from Aden to Djibouti. The boat ride,  
21 which was between 15 to 17 hours, was extremely dangerous, as the boat was not intended to  
22 accommodate the number of passengers it carried.  
23

24           201. After completing the required medical examinations, Bamdhaf attended his  
25 interview at the Embassy on October 31, 2017. At the conclusion of the interview, the consular  
26 official told Bamdhaf that his visa was approved and provided him with a notice stating that the  
27 visa was approved, identifying his redress number, DJI2017597039. **Exhibit 26.** The consular  
28 officer also took Bamdhaf's passport, and informed him that his visa would be issued soon.

1           202. Omer and Bamdhaf understood that Bamdhaf's request for a visa had been  
2 approved and that no further steps remained in the application process, as Bamdhaf's passport  
3 was taken by the Embassy and they were provided paperwork stating plainly that her visa had  
4 been approved.

5           203. Bamdhaf remained in Djibouti waiting for his visa to be printed. After several  
6 months of Embassy inaction, Omer made multiple visits to Congresswoman Nydia Velazquez's  
7 office, asking for assistance obtaining clarification from the Embassy regarding her husband's  
8 visa. She made the first visit in January 2018, and asked her representative to send a letter of  
9 inquiry to the Embassy. She subsequently visited her representative two more times, asking for  
10 updates.  
11

12           204. By March 2015, Bamdhaf was no longer able to remain in Djibouti due to the  
13 rising costs and the long wait. Omer asked her Congressional representative to advocate on her  
14 behalf, and ask that the Embassy either issue a visa, or if they would not, return her husband's  
15 passport to him so that he could travel. The next day, on March 5, 2018, the Embassy returned  
16 her husband's passport and issued him a notice informing him that his visa had been denied  
17 pursuant to the Proclamation. **Exhibit 27.**  
18

19           205. During his stay in Djibouti, which lasted five months, Bamdhaf spent more than  
20 \$10,000 in borrowed funds on food and housing alone.

21           206. While in the United States, Omer lived with her brothers and sisters in Michigan  
22 and New York. Her mother supports her with her pension and social security funds. Her father  
23 passed away in 2012.  
24

25           207. Omer traveled to Sana'a, Yemen, with her daughter in March 2018 to reunite with  
26 her husband. Since their arrival, there have been repeated bombings in Sana'a, and there is  
27 limited access to hospitals and medical care. Her daughter no longer attends daycare, due to  
28

1 safety concerns. Bamdhaf is not currently employed; his job in Aden is no longer accessible  
2 given the heightened security risk in the area.

3 208. To date, Bamdhaf has not been issued a visa or granted a waiver.

4 *Plaintiff Mused Ali Riyashi*

5 209. Mused Ali Riyashi is a United States citizen who resides in Melvindale,  
6 Michigan.

7 210. Riyashi filed an I-130 petition seeking a visa for his daughter, Amlak Musaed Ali  
8 Alreyashi, his daughter's husband, Adel Mohammed Qasem Alashram, and two of their children,  
9 all Plaintiff Beneficiaries, to join him in the United States in December 2002.

10 211. Amlak Alreyashi married her husband, Adel Alashram, in Yemen on August 27,  
11 1999. The couple has six children: Amal Adel Mohammed Alashram, K.A.M.A., A.A.M.A.,  
12 N.A.M.A., D.A.M.A., and F.A.M.A.

13 212. On August 8, 2016, thirteen years after the I-130 petition was first filed, Riyashi  
14 was informed that his daughter and her family were finally scheduled for an interview at the  
15 Embassy on September 5, 2016. According to the letter, the applicants eligible to attend the  
16 interview were Alreyashi, her husband Adel Alashram, and the oldest two children, Amal  
17 Alashram and K.A.M.A., who were all part of the original petition.

18 213. In anticipation of the interview, Adel Alashram travelled with Alreyashi and their  
19 two oldest children, Amal Alashram and K.A.M.A., to Djibouti. The remaining four children  
20 stayed behind in Yemen with their grandmother. The family travelled to Aden through  
21 numerous checkpoints, and boarded boats to Djibouti that were unsafe and intended for  
22 commercial shipping. The family's travel from Yemen to Djibouti lasted over 23 hours.

23 214. During the interview on September 5, 2016, consular officials informed Alashram  
24 and Alreyashi that they could not conduct the interview without all of their children present,  
25 because they needed to process the whole family's petitions simultaneously. The Embassy  
26  
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1 issued a new interview date of December 14, 2016, so that the couple would have time to bring  
2 the remaining children from Yemen. Alashram left Djibouti for Yemen on November 20, 2016  
3 to retrieve his remaining children for the interview.

4 215. Once in Yemen, however, Alashram and his children could not leave due to war-  
5 related closures and violence. Alashram and his four children were forced to remain in Yemen  
6 for an additional 40 days and thus missed their interview date in Djibouti.

7 216. On December 14, 2016, Alreyashi attended the interview with her two children,  
8 Amal Alashram and K.A.M.A.. At the conclusion of the interview, the consular official  
9 informed Alreyashi that their visas were approved and provided her with a document stating that  
10 the visas were approved which identified her redress number, DJI2016700011. **Exhibit 28.**

11 217. The consular officer took Alreyashi's passport, along with the passports of Amal  
12 Alashram and K.A.M.A. Alreyashi understood that the visa requests had been approved and that  
13 no further steps remained in the application process, as their passports were taken by the  
14 Embassy and they were provided paperwork stating plainly that their visas had been approved.  
15

16 218. Alashram returned to Djibouti in January 2017 with his four youngest children,  
17 A.A.M.A., N.A.M.A., D.A.M.A., and F.A.M.A. The Embassy rescheduled his interview for  
18 April 4, 2017. At the conclusion of the interview, the consular officer took Alashram's passport,  
19 along with the passports of his four children. Alashram understood that their requests for visas  
20 had been approved, just as the rest of the family's had, and that no further steps remained in the  
21 application process.  
22

23 219. After the interview, the family remained in Djibouti awaiting the printing of their  
24 visas. During this wait, each member of the family was required to complete a new medical  
25 examination every six months to be in compliance with the Embassy's requirements.  
26  
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28





1 “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary  
2 to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction,  
3 authority, or limitations, or short of statutory right; and without observance of procedure required  
4 by law” in violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A)-(D).

5         228. Plaintiffs began the immigrant visa process for Plaintiffs’ Beneficiaries in 2015 or  
6 early 2016 and the State Department approved Plaintiffs’ Beneficiaries’ immigrant visas before  
7 the Proclamation was in lawful effect. Under the applicable and binding regulations in effect at  
8 the time, Defendants were required to timely print and issue Plaintiffs’ Beneficiaries approved  
9 immigrant visas. Federal regulations prescribe, in relevant part, that “[w]hen a visa application  
10 has been properly completed and executed before a consular officer in accordance with the  
11 provisions of the INA and the implementing regulations, the consular officer *must* issue the visa  
12 [or] refuse the visa under INA 212(a) or 221(g) or other applicable law.”<sup>9</sup> 22 C.F.R. § 42.81(a)  
13 (emphasis added). If a consular officer refuses a visa, the consular officer must sign and date a  
14 refusal form and “inform the applicant of the provision of law or implementing regulation on  
15 which the refusal is based and of any statutory provision of law or implementing regulation  
16 under which administrative relief is available.” *Id.* § 42.81(b).

17  
18  
19         229. Following their visa interviews, Defendants informed Plaintiffs’ Beneficiaries,  
20 orally and in writing, that their visas had been approved. Defendants did not inform Plaintiffs’  
21 Beneficiaries that they were ineligible. Under applicable law, the approval decision was the final  
22 determination in the visa application process. Defendants later withheld, revoked or denied said  
23 visas pursuant to the Proclamation, which had no lawful force at the time Plaintiffs’  
24  
25  
26

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27 <sup>9</sup> The only other exception relates solely to individuals from countries subject to “visa sanctions”  
28 pursuant to INA 243(d), whose visas may be “discontinued”; that provision is not applicable  
in this case.

1 Beneficiaries completed their visa interviews and when Defendants were legally required to  
2 either approve or refuse their visa applications. Defendants' actions were based on legal error,  
3 particularly in light of the reliance issues at stake, and were therefore arbitrary, capricious, an  
4 abuse of discretion, and otherwise not in accordance with law, and in violation of the  
5 Administrative Procedure Act, 5 U.S.C. § 706(2)(A).

6 230. Defendants' actions, as set forth above, are contrary to constitutional rights,  
7 including Plaintiffs' rights not to be deprived of their liberty interest in family reunification, and  
8 statutory and regulatory rights to petition for visas for their family members, without due process  
9 and as protected by the First and Fifth Amendments to the U.S. Constitution, in violation of the  
10 Administrative Procedure Act, 5 U.S.C. § 706(2)(B).

11 231. Defendants' actions, practices, interpretation of law in withholding or denying the  
12 Plaintiffs' Beneficiaries' previously approved immigrant visas, as set forth above, are ultra vires  
13 and exceed any authority granted by the Proclamation, State Department regulations, and the  
14 INA, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C).

15 232. Defendants' actions, as set forth above, affect Plaintiffs' substantive rights and  
16 were made without observance of procedure required by law in violation of the Administrative  
17 Procedure Act, 5 U.S.C. § 706(2)(D).

18 233. Defendants' actions, practices, and failure to issue Plaintiffs' Beneficiaries'  
19 previously approved immigrant visas, as set forth above, contravene the State Department's own  
20 policy and procedures and therefore should be set aside under the Accardi doctrine, which  
21 invalidates agency actions that contravene an agency's own policies. United States ex. rel.  
22 Accardi v. Shaughnessy, 347 U.S. 260 (1954). Defendants' actions are therefore arbitrary,  
23 capricious, an abuse of discretion, or otherwise not in accordance with law, in violation of the  
24 Administrative Procedure Act, 5 U.S.C. § 706(2)(A).  
25  
26  
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28



1 members to travel to the United States. Individuals must be given due process prior to the  
2 deprivation of these liberty interests.

3 243. Defendants' actions, as set forth above, have deprived Plaintiffs of their  
4 aforementioned statutory and regulatory rights and constitutional liberty interests without due  
5 process of law.

6 244. Defendants' violation of Plaintiffs' constitutionally guaranteed rights have caused  
7 Plaintiffs to suffer and continue to suffer irreparable harm and entitle them to declaratory,  
8 injunctive and other relief.  
9

### 10 **THIRD CAUSE OF ACTION**

11 **(Mandamus Act, 28 U.S.C. § 1361; 28 U.S.C. § 1651)**

12 245. The foregoing allegations are repeated and incorporated as though fully set forth  
13 herein.

14 246. Defendants are severally and jointly charged with the mandatory responsibility to  
15 administer and implement the INA and corresponding regulations, which limit their discretion  
16 and impose non-discretionary duties on Defendants.  
17

18 247. Defendants each severally and jointly bear responsibility for timely adjudication  
19 of applications for immigrant visas and issuance of approved visas and have the authority and  
20 jurisdiction required to adjudicate and influence the issuance of Plaintiffs' Beneficiaries'  
21 immigrant visas.  
22

23 248. Defendants have willfully and unreasonably delayed and or refused to perform  
24 their clear, non-discretionary duties by failing to properly and in good faith, timely complete the  
25 printing of Plaintiffs' Beneficiaries' approved visas as is required by the INA and applicable  
26 regulations.  
27

28 249. Plaintiffs have exhausted any administrative remedies that may exist and there  
exists no other adequate remedy.



1           257. Grant any further relief that this Court deems just and proper.  
2

3 Dated: September 4, 2019  
4

5 Respectfully submitted,  
6

7 \_\_\_\_\_  
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\**Pro hac vice application forthcoming*

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