# PRACTICE TOOLKIT: HANDLING COMPLEX OR DELAYED NATURALIZATION APPLICATIONS

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1 Thanks to Luis Mancheno of the Bronx Defenders for providing this sample letter.
PRACTICE ADVISORY¹
March 25, 2016

HANDLING A COMPLEX OR DELAYED NATURALIZATION APPLICATION: ADMINISTRATIVE INQUIRIES AND 8 U.S.C. § 1447(b) RELIEF

Section 336(b) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1447(b), provides a statutory remedy to naturalization applicants whose applications have been pending for over 120 days since their interview. Section § 1447(b) allows a federal district court to review a naturalization application if United States Citizenship and Immigration Services (USCIS) fails to make a determination more than 120 days after the date of the examination. The suit must be filed in the federal district court where the applicant resides, and subsequently, the court may either adjudicate the naturalization application or remand the case with instructions to USCIS.

This advisory is geared toward advocates and attorneys who represent clients with prior criminal history and/or prior history in removal proceedings. In our experience in New York City, nearly any prior criminal history can cause an N-400 application to be pending long past normal processing times, and may result in Requests for Evidence or long delays after the interview without a decision. This may be true even where the criminal history is many years outside the “good moral character” period or the client has already won relief in immigration court. This advisory does not address applications that are delayed for alleged national security reasons, such as those subject to USCIS’s Controlled Application Review and Resolution Program (CARRP), although § 1447(b) may be a tool to consider in those cases as well.

This practice advisory will discuss the available administrative inquiries advocates and clients can make prior to filing a § 1447(b) action, and will outline the basic elements for preparing a § 1447(b) suit.²

¹ This advisory was prepared by law students Kristine Koopman and Jacob Onile-Ere under the supervision of teaching fellow Andrea Sáenz through the Immigration Justice Clinic at the Cardozo School of Law. This Practice Advisory is not a substitute for independent legal advice supplied by a lawyer familiar with a client’s case.
² The same steps suggested in this advisory can be taken to exhaust administrative inquiries for a stalled Form N-600, Certificate of Citizenship, or other USCIS application. However, note that delayed N-600s and other USCIS applications cannot lead to litigation under § 1447(b), and delays must be addressed through a petition for a writ of mandamus. Thus, clients with stalled applications other than N-400s must also allege that the length of delay has been “unreasonable.” See AILF Legal Action Center Practice Advisory, Mandamus Jurisdiction Over Delayed Applications: Responding to the Government’s Motion to Dismiss (updated July 23, 2009), http://americanimmigrationcouncil.org/sites/default/files/docs/mandamus-jurisdiction9-24-07%20PA.pdf.
I. Filing the Naturalization Application

When filing a Form N-400, Application for Naturalization, for a client with prior criminal history or removal proceedings, we recommend filing a detailed cover letter outlining the client’s eligibility for naturalization and why he or she has shown good moral character within the required period.\(^3\) We also recommend filing affirmative evidence of positive equities within the good moral character period (such as family ties, work, tax filings, community or religious involvement, or completion of rehabilitative programs), rather than relying on a lack of new criminal history to show good moral character. You will then be able to argue that there is clear evidence of rehabilitation within the good moral character period and thus the client’s prior criminal history cannot lawfully be a basis to deny naturalization in the exercise of discretion.\(^4\)

If your client won termination or relief in immigration court, submit the Immigration Judge’s order and any filings necessary to understand that order. Finally, you should submit certificates of disposition for any arrests within the good moral character period. For convictions or arrests prior to that period, you may decide to submit records now or wait to see what USCIS requests later in the process in order to make a strategic decision whether it would be better to comply with the request or decline as outlined in the sample letter in Exhibit C.

II. Administrative Inquiries

Making administrative inquiries into your delayed case may or may not provide useful information, but such inquiries will build the record for the applicant, showing diligence. In the event the administrative inquiries do not result in the adjudication of the application, the exhaustion of these inquiries will strengthen the applicant’s position in the eventual litigation. To conduct the following administrative inquiries on the client’s behalf, attorneys must have a G-28, Notice of Entry of Appearance signed by the applicant.\(^5\)

You can start making these inquiries as soon as 120 days have passed since the interview, and in fact, this is recommended, as § 1447(b) allows an applicant to file an action immediately after 120 days have passed without any analysis of the reasonableness or individual length of the delay. We recommend that you make at least three attempts using different inquiry options to contact USCIS about a delayed case before preparing a complaint under § 1447(b).

A. USCIS Case Status Online

You can check the current status of your case by using this online tool available at https://egov.uscis.gov/casestatus/landing.do. You will need to enter your application receipt number and click on the “check status” link.

B. USCIS National Customer Service Center

This is a good place to start making inquiries. Calling the USCIS National Customer Service Center gives the applicant or attorney the opportunity to speak with a USCIS

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\(^3\) Naturalization applicants must demonstrate “good moral character” as defined by INA § 101(f) within a defined period, usually 5 years prior to the filing of the application. See INA § 316(a).

\(^4\) See 8 C.F.R. § 316.10(a)(2) (USCIS may consider conduct outside the statutory period “if the conduct of the applicant during the statutory period does not reflect that there has been reform of character from an earlier period or if the earlier conduct and acts appear relevant to a determination of the applicant's present moral character”).

\(^5\) Form G-28 can be found at: https://www.uscis.gov/sites/default/files/files/form/g-28.pdf.
representative. Be prepared for long wait times when calling. The number for the National Customer Service Center is: 1 (800) 375-5283.⁶ Within a week or two of the call, you should receive an email and/or paper confirmation of the call and USCIS’s response, which is often simply that the application is “pending” or that there are ongoing “background checks.”

C. USCIS Online Case Inquiry

An online case inquiry is available at https://egov.uscis.gov/e-Request/Intro.do. This is in lieu of, or in addition to, calling the National Customer Service Center as described above. It is not necessary to do both, as they tend to result in the same information, but you may choose to do so to create a lengthier trail of inquiries. You will get the same type of response as described above.

D. USCIS InfoPass Appointments

An InfoPass appointment also allows the applicant to speak in person with a USCIS customer service representative, and sometimes a supervisor. The appointments can be made several weeks in advance. The applicant can attend the appointment herself or with the attorney. You can use the InfoPass appointment confirmation notice as a receipt indicating the date and purpose of the appointment. Additionally, if the officer does not volunteer to submit an internal inquiry into the delay, ask them to do this and ask for a receipt. For clients who were previously in removal proceedings, it can be helpful to ask the officer to confirm that the case file is now physically with USCIS and is not still with ICE.

The InfoPass appointment is also useful for an applicant who is a lawful permanent resident (LPR) with an expired green card. The USCIS representative can stamp the applicant’s passport. The stamp serves as evidence that the passport holder is a lawful permanent resident, however, the stamp is only valid for one year.

InfoPass appointments can be scheduled at: https://infopass.uscis.gov/. You will need the client’s A number, receipt number, address, and availability.

E. USCIS Ombudsman’s Office

According to USCIS, “The Ombudsman provides an impartial and independent perspective to USCIS in an attempt to resolve problems with pending cases.”⁷ The Ombudsman’s office allows you to file an online request for case assistance. However, prior to filing an Ombudsman inquiry, applicants should have tried to resolve the problem through USCIS customer service, including the call service center and InfoPass, as the online form asks you to report what steps you have tried previously.

The inquiry is submitted online through: https://cisomb.dhs.gov/oca/form7001.aspx. The Ombudsman does not provide immediate assistance, as it may take 45-60 days to respond to a request, but other administrative inquiries can be pursued while an applicant or attorney is waiting for a response.

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F. Congressional or Mayor’s Office Inquiry

An applicant also has the option to either contact a representative from the House of Representatives, or the Senate. Use either your zip code or your state of residence to find your representative, then contact him/her for help with your case. Your member of Congress’s district office will have a constituent services specialist who can often make an inquiry with USCIS. In addition, the New York City Mayor’s Office of Immigrant Affairs is able to make inquiries on delayed applications, and can be contacted through calling 311 or 212-788-7654, or online at http://www.nyc.gov/html/mail/html/mailimm.html.

III. Preparing a Demand Letter and Draft Complaint

If administrative inquiries do not resolve a delayed naturalization case, it is time to consider litigation. Prior to filing a § 1447(b) action in federal court, a demand letter and draft complaint should be sent to the appropriate USCIS field office, as well as to the appropriate United States Attorney’s Office in the district where the client lives. Merely informing the agency that you are about to file litigation often results in the adjudication of the client’s case, saving time and resources for everyone. A draft complaint and demand letter are included as Exhibits D and E.

The demand letter is essentially a cover letter to the complaint. The letter should include the procedural history and a short summary of the administrative inquiries and the results, and a timeframe in which USCIS must adjudicate the application in order to avoid a § 1447(b) action filed in federal court.

The draft complaint only needs to allege the basic elements of a claim under § 1447(b), namely, that the application has been pending for more than 120 days post-interview. However, we recommend that you include as many equities in favor of the applicant as possible, such as how long the delay has been, what the current processing time is for the relevant USCIS field office, and any difficulties the applicant has suffered due to the delay. The complaint should also incorporate the administrative inquiries that have been conducted, including when the inquiries were made, and what resulted from the inquiry or if the inquiry is still pending. We also recommend that you allege that the client meets all the statutory requirements for naturalization and merits a favorable exercise of discretion. The draft complaint does not need to be the final version, but is intended to convey to the agency and U.S. Attorney’s Office a concrete willingness to pursue litigation if necessary.

You can send the letter and draft complaint to the USCIS field office and also the U.S. Attorney’s Office in the district where you would file the complaint. In the New York City area, these addresses include:

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• **New York City USCIS Field Office:**
  Tim Houghton, Field Office Director
  U.S. Citizenship and Immigration Services
  New York Field Office
  Jacob K. Javits Federal Bldg.
  26 Federal Plaza, Room 3-120
  New York, NY 10278

• **Southern District of New York USAO:**
  Shane Cargo, Assistant U.S. Attorney
  United States Attorney's Office, Civil Division
  86 Chambers Street, 3rd Floor
  New York City, NY 10007

• **Eastern District of New York USAO:**
  Scott Dunn, Assistant U.S. Attorney
  United States Attorney's Office, Civil Division
  271 Cadman Plaza East
  Brooklyn, NY 11201

**IV. Filing a § 1447(b) Action in Federal District Court**

If sending a draft complaint does not cause USCIS to adjudicate your case within the time frame you specified, your next step will be to file the complaint in district court. For more detailed information on how to file a § 1447(b) action in federal district court, including case law on the elements of a § 1447(b) claim, please refer to the American Immigration Council’s Practice Advisory:

January 20, 2015

By Overnight Mail
USCIS
Attn: N-400
2501 S State Hwy 121 Business
Suite 400
Lewisville, TX 75067

Re: Application for Naturalization (N-400) with Supporting Documentation
E.C, A# __

Dear Sir or Madam:

The Cardozo Immigration Justice Clinic represents Mr. E.C in his application for naturalization. Please find enclosed the following items in this order:

- Two passport style photographs
- $680 Application Fee
- G-28 Notice of Appearance
- Form N-400 Application and Supporting Documents, Exhs. A-I

INA § 316 requires that an applicant for naturalization must have (1) five years continuous residence in the United States as a lawful permanent resident immediately preceding the date of his application; (2) physical presence in the United States for half that time; (3) residence in the State in which the application is filed for at least three months; and (4) good moral character during those five years. Mr. C clearly meets these requirements.

a. Mr. C meets the residence and physical requirements at INA § 316.

Mr. C has been a Lawful Permanent Resident since March 20__, when he adjusted his status. See Exh. A, Permanent Resident Card; Exh. B, Notice of Removal of Conditions. Mr. C has resided continuously in the United States since 19__. During the last five years, Mr. C has not left the United States except for very brief trips of 7 and 8 days each in 20__ and 20__, and has continuously resided in New York State, thus meeting the residence and physical presence requirements of INA § 316(a).

b. Mr. C meets the good moral character requirements for naturalization.

Relevant factors include: family ties and background; absence or presence of other criminal history; education; other law-abiding behavior; community involvement; and length of time in United States. *Id.*

Mr. C has a single criminal arrest from October 18, 20__. This is the one and only time he has ever been arrested. It resulted in a misdemeanor conviction for Petit Larceny, NYPL § 155.25 and a sentence of conditional discharge, with no jail time or term of probation. *See* Exh. H, Certificate of Disposition. This single conviction does not preclude good moral character under INA § 101(f) because, assuming it is even a crime involving moral turpitude,¹ it fits squarely within the “petty offense exception” as the offense is not punishable by more than a year and Mr. C received no jail time at all. *See* INA § 212(a)(2)(A)(ii)(II) (petty offense exception for offenses punishable by a year or less where the actual sentence did not exceed six months); INA § 101(f)(3) (setting forth bars to good moral character, and incorporating the petty offense exception by reference to INA § 212(a)(2)); *Matter of Garcia-Hernandez*, 23 I&N Dec. 590, 593 (BIA 2003) (a single offense that meets the petty offense exception does not bar an applicant from a good moral character finding). Accordingly, Mr. C has no bar to establishing good moral character.

Looking at the totality of the circumstances, Mr. C warrants a determination of good moral character. He sincerely regrets the conduct that led to his single misdemeanor conviction, and has demonstrated rehabilitation through his strong work history, no further contact with police, and active involvement in his community and church. Specifically, Mr. C is extremely well-regarded for his compassionate and dedicated work as a caregiver, caring for elderly and terminally ill individuals in their homes. His work is physically and emotionally difficult, and he has often cared for clients until the day they pass away, comforting and assisting the patient’s family along the way. His employers and colleagues speak of his character in the highest possible terms. *See, e.g.*, Exh. C., Letter of Support from K.G (“Mr. C was a godsend to my husband…His caring and attention to my husband will never be forgotten and I give him my highest recommendation.”); Exh. E., Letter of Support from J.S (“[Mr. C is] gentle, sympathetic, and kind, with endless patience…His devotion was complete, and I consider G now to be a friend and family member.”). Mr. C is also an active member of his church, where he volunteers, cleans, and sings in the choir. *See* Exh. G., Letter of Support of M.L.

A determination of good moral character for naturalization is thus warranted because of Mr. C’s commitment to his work, engagement in church and community, long residence in the United States, and rehabilitation since his sole misdemeanor disposition in 2011. Please process Mr. C’s N-400 application and schedule him for an examination as soon as possible. Thank you for your time and attention to this matter.

¹ There are strong reasons to believe that Petit Larceny is not a crime involving moral turpitude, as the offense does not require the intent to permanently deprive the owner of property, which has long been necessary for a CIMT finding. *See* *Matter of Grazley*, 14 I&N Dec. 330, 333 (BIA 1973); *see also* Wala v. Mukasey, 511 F.3d 102, 106 (2d Cir. 2007) (applying *Grazley* to find Connecticut larceny offense, with definitions identical to New York’s, was not a CIMT); Obeya v. Holder, 572 F. App’x 34, 35 (2d Cir. 2014) (remanding for fuller analysis of whether New York petit larceny is a CIMT in light of *Grazley* and *Wala*). However, even if USCIS determines the offense to be a CIMT, as noted, it would not bar a good moral character finding.
Sincerely,

Andrea Saenz, Esq.
Immigration Justice Clinic
Benjamin N. Cardozo School of Law
55 Fifth Avenue, 11th Floor
New York, NY 10003
Tel: (212) 790-0213

Counsel for Mr. C
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<td>Photocopy of both sides of Mr. C’s Permanent Resident Card</td>
</tr>
<tr>
<td>B.</td>
<td>Notice of Removal of Conditional Basis of Lawful Permanent Residence, showing Mr. C’s conditional status was removed on 1/26/20__, deeming him an LPR as of his original adjustment date of 3/12/20__</td>
</tr>
<tr>
<td>C.</td>
<td>Copy of Mr. C’s Social Security Card</td>
</tr>
<tr>
<td>D.</td>
<td>Notarized Letter of Support from Former Employer K.G, discussing Mr. C’s exceptional work as a caregiver for her late husband, A.G.</td>
</tr>
<tr>
<td>E.</td>
<td>Notarized Letter of Support from L.M, former employee of A.G, discussing Mr. C’s excellent work as a caregiver and his good moral character</td>
</tr>
<tr>
<td>F.</td>
<td>Notarized Letter of Support from Former Employer J.S, discussing Mr. C’s exceptional work as a caregiver for her late husband, O.S.</td>
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<tr>
<td>G.</td>
<td>Notarized Letter of Support from D.N, registered nurse and colleague of Mr. C, discussing his excellent work and good moral character</td>
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<tr>
<td>H.</td>
<td>Notarized Letter of Support from M.L, minister and lector at Mr. C’s church, discussing his good moral character</td>
</tr>
<tr>
<td>I.</td>
<td>Copy of Certificate of Disposition for Mr. C’s Sole Arrest in 2011</td>
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Documents in Support of E.C’s N-400 Application

Exhibit

A. Photocopy of both sides of Mr. C’s Permanent Resident Card

B. Notice of Removal of Conditional Basis of Lawful Permanent Residence, showing Mr. C’s conditional status was removed on 1/26/20__, deeming him an LPR as of his original adjustment date of 3/12/20__

C. Copy of Mr. C’s Social Security Card

D. Notarized Letter of Support from Former Employer K.G, discussing Mr. C’s exceptional work as a caregiver for her late husband, A.G.

E. Notarized Letter of Support from L.M, former employee of A.G, discussing Mr. C’s excellent work as a caregiver and his good moral character

F. Notarized Letter of Support from Former Employer J.S, discussing Mr. C’s exceptional work as a caregiver for her late husband, O.S.

G. Notarized Letter of Support from D.N, registered nurse and colleague of Mr. C, discussing his excellent work and good moral character

H. Notarized Letter of Support from M.L, minister and lector at Mr. C’s church, discussing his good moral character

I. Copy of Certificate of Disposition for Mr. C’s Sole Arrest in 2011
APPENDIX B
April 25, 2013

By Express Mail
Attn: N-400
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
2501 S State Hwy 121 Business
Suite 400
Lewisville, TX 75067

Re: Application for N-400 Naturalization
F.A., A#

Dear Sir/Madam:

We represent F.A., A#, in his application for naturalization. See Ex. A (G-28 Notice of Entry of Appearance). Mr. A is eligible to naturalize, and as we will demonstrate, he possesses tremendous equities that makes him an excellent candidate for naturalization.

Mr. A is a __ year-old legal permanent resident (“LPR”) who has resided in the U.S. since 19__. He serves as the primary caretaker for his ailing United States citizen mother, supports a teenage daughter, and has deep familial and community ties in the United States. Although he has criminal convictions, these convictions are 25 years old and non-violent in nature. Mr. A exemplifies the type of individual that should be allowed to become a United States citizen, and thus we request that USCIS approve his application.

Please find the following enclosed in support of Mr. A’s application:
- Two photos
- Check for $680 made out to the Department of Homeland Security
- G-28
- N-400
- Supporting documents Exs. A-DD

Statutory Eligibility for Naturalization

Mr. A meets the requirements for naturalization as set out in INA §§ 312, 316, 8 U.S.C. §§ 1423, 1427. Mr. A can demonstrate an understanding of the English language and the history, principles, and form of government of the United States, as required under INA § 312. Mr. A has also resided continuously in the United States as an LPR for more than five years, and he has been physically present for virtually all of the five years immediately preceding the date of filing of his application, satisfying INA § 316(a)(1). See Ex. B (Current Passport of F.A.). Mr. A will continue to reside within the United States from the date of the application up to the time of admission to citizenship, satisfying INA § 316(a)(2). In addition, Mr. A has been, and still is, a person of good moral character, attached to the principles of the Constitution of the United States, and
well-disposed to the good order and happiness of the United States, satisfying INA § 316(a)(3).

Mr. A’s convictions all date back to 19__ or earlier, and thus they do not bar him from establishing good moral character, even though they may be considered aggravated felonies. 8 C.F.R. § 316.10(b)(1)(ii) (excluding convictions prior to November 29, 1990 from the permanent bar to establishing good moral character) See Ex. C (Certificates of Disposition of F.A). In addition, Mr. A has not been in trouble with the law for over 25 years, therefore none of the good moral character bars during the statutory period apply to him. 8 C.F.R. § 316.10(b)(2). Indeed, Mr. A has demonstrated exemplary moral character during and before the statutory period, as described more fully below.

Last, although Mr. A was recently in removal proceedings, his removal proceedings were terminated with consent from ICE on March 7, 2013 by the Immigration Judge. See Ex. D (Order Terminating Removal Proceedings, March 7, 2013). Therefore, as of the time of the filing of this application, Mr. A is not in removal proceedings, and he is prima facie eligible for naturalization.

Referral to ICE is Unwarranted

We understand that, in cases where an applicant is deportable because of past criminal convictions, it is sometimes USCIS’s practice to refer the case to ICE for removal proceedings. See Ex. E (USCIS Policy Memorandum on Revised Guidance for the Referral of Cases and Issuance of Notice to Appear in Cases Involving Inadmissible and Removal Aliens, Nov. 7, 2011, hereinafter "the Memo" Section (V)(A)(1)) (requiring a recommendation from USCIS on the issuance of a Notice to Appear based on the evaluation of the “totality of the circumstances,” including date and severity of crime, reformation, immigration history, education, and other contributions to society).

In this case, we believe that Mr. A’s equities demonstrate that he possesses good moral character and qualities that make him an ideal candidate for naturalization. Therefore, we respectfully request that USCIS adjudicate his N-400 and decline to recommend referral of his case to ICE for removal proceedings.

Mr. A's Equities Demonstrate Good Moral Character

As we will demonstrate below, Mr. A not only meets, but exceeds the standards set forth in USCIS’s Policy Manual for determining good moral character. See Ex. F (USCIS Policy Manual Volume 12: Citizenship & Naturalization, Part F: Good Moral Character, Chapter 2: Adjudicating Factors (last updated Jan. 7, 2013, hereinafter "the Manual")) (factors relevant to good moral character include family ties and background, absence or presence of other criminal history, education, employment history, other law-abiding behavior, community involvement, credibility of the applicant, compliance with probation, and length of time in United States).

Although Mr. A has criminal convictions, they are __ years old or older. Since 19__,
he has demonstrated rehabilitation and excellent moral character through his achievements in academics and business; hard work to provide for his large United States citizen ("USC") family; care for his elderly USC mother, who suffers from Alzheimer's disease and for whom Mr. A is the primary caretaker.

a. Mr. A is a long-time LPR who has resided in the U.S. for over 50 years.

Mr. A was born on September __, 19__ in the Dominican Republic. See Ex. G (F.A Birth Certificate). He entered the U.S. legally as an LPR in 196__ at the age of 10. See Ex. H (F.A Alien Resident Card). Mr. A has been an LPR in New York for 50 years. Mr. A grew up in Brooklyn, where he attended middle school and high school. See Ex. I (Affidavit of F.A ¶ 4). As demonstrated by the attached exhibits, he has spent his life since age 10 in New York, raising a large family, caring for his infirm mother, owning businesses, and contributing to his community.

b. It's been over __ years since Mr. A's last convictions and he has successfully rehabilitated to become a contributive member of society

Mr. A's last convictions were in 19__, over 25 years ago. Since his convictions, Mr. A has maintained a clean record and focused on his family. See Ex. I (Affidavit of F.A ¶ 21); Ex. J (Affidavit of H.A ¶ 7); Ex. K (Affidavit of F.A Jr. ¶ 6); Ex. L (Affidavit of A.A ¶ 10); Ex. M (Affidavit of O.A ¶ 3); Ex. N (Affidavit of K.A ¶ 2). He has accepted responsibility for the mistakes he made more than 25 years ago, and regrets this time of his life. See Ex. I-N (Affidavits).

Mr. A's rehabilitation into a hardworking, educated, family man began during his incarceration. A testament to his good behavior in prison, Mr. A was permitted to move about freely throughout the facility – a privilege awarded to few inmates. See Ex. DD (Affidavit of Dr. R.T). Mr. A was also involved in several leadership roles during his incarceration, and worked to provide helpful services to other inmates. See Ex. I (Affidavit of F.A ¶ 21).

Mr. A had always strived for higher education. In June 19__, he received an Associate’s Degree in Science from __ College. See Ex. O (F.A Degree from __ College). He continued his studies, and in May 19__, he received his Bachelor of Arts with Magna Cum Laude Honors from __ College. See Ex. P (F.A Degree from Keuka College). After his release from prison, Mr. A continued pursuing higher education, obtaining his paralegal certificate from __ College.¹ He has always emphasized the importance of school for his children and grandchildren, and the pursuit of education has always been personally important to him as well. See Ex. I (Affidavit of F.A ¶ 15-16); Ex. J (Affidavit of H.A ¶ 6); Ex. M (Affidavit of O.A ¶ 5).

Mr. A has been, and still is an extremely hard-working man. Soon after moving to Manhattan in the 1980s, he started __ Auto Repairs in 19__. Following his release from prison, he also owned a shop called __ Auto Collision & Repairs LLC on __. See Ex. Q

¹ Mr. A’s degree from __ College is being requested and will be mailed at the earliest possible time.
(__ Auto Collision & Repairs Articles of Incorporation). Currently, Mr. A is an authorized officer of __ Auto Collision Repair Inc., a family business that is legally owned by his son F.A Jr. See Ex. R (Department of State Record of __ Auto Collision Repair Inc.).

Mr. A has also worked to provide security for various films and television shows since approximately 19__. Mr. A is diligent at his job and is very responsible. He is currently working security on a steady seasonal basis for the HBO series __, a job that he has had since 20__. Mr. A maintains a steady record of reporting income and paying taxes. See Ex. S (F.A Social Security Statements, Tax Documents, W-2s and Pay Stubs).

Moreover, Mr. A has helped to improve the lives of people in his community, working for several years in the mid-1990s as a counselor providing social service support to individuals struggling with addiction and with HIV-positive populations. See Ex. I (Affidavit of F.A ¶ 19); Ex. M (Affidavit of O.A ¶ 5).

c. Mr. A is the primary and sole caretaker of his U.S. citizen mother who suffers from Alzheimer’s

In addition to his devotion to his children, Mr. A is also the primary caretaker of his elderly, ill mother, G.A. See Ex. I-N (Affidavits). G is a 78-year-old U.S. citizen who suffers from Alzheimer’s disease. See Ex. T (Progress Notes and Prescription of G.A).

Mr. A lives with G.A. and provides her with constant care and assistance. See Ex. I (Affidavit of F.A ¶ 12). G needs help with almost every aspect of her daily life, and Mr. A has taken on the responsibility of feeding her, giving her her medicine, taking her to all medical appointments, and doing her shopping. See Ex. I-N (Affidavits). Practically, and in the eyes of the law, Mr. A is in charge of making important decisions on behalf of G; he is both her power of attorney and medical proxy. See Ex. U (Power of Attorney); Ex. V (Medical Proxy and Translation).

Mr. A’s dedicated caring for his elderly, ill mother demonstrates his moral character. Without Mr. A’s constant and attentive care, G.A would be forced to live in a retirement home, where she would not receive the same amount of love and attention.

d. Mr. A has deep familial ties to U.S. citizens

Mr. A is a devoted family man, and the husband, father, grandfather and son of U.S. citizens. Mr. A raised his large family in the New York area. He married his wife H, a U.S. citizen, in Brooklyn on August 19, 19__. See Ex. W (Marriage Certificate of F.A and H.A). Together, they have had six children – F Jr., O, A, W (now deceased), K and K. See Ex. K-N (Birth Certificates of Children); Ex. X (Birth Certificate of K.A); Ex. Y (Picture ID of W.A); Ex. Z (Newspaper Article on the Death of W.A). While raising his children, Mr. A worked extremely hard to support his growing family. See Ex. J (Affidavit of H.A ¶ 3); Ex. L (Affidavit of A.A ¶ 9). Despite working so hard in order to financially support his family, Mr. A also made time for his loved ones, giving his children advice, and taking
them on trips to New England and the Dominican Republic. See Ex. L (Affidavit of A.A ¶ 5).

Mr. A continues to work long hours to provide financial support to his young daughter K, age 17, and the rest of his family. See Ex. J (Affidavit of H.A ¶ 5); Ex. N (Affidavit of K.A ¶ 10). His earnings provide a vital source of support for his young daughter and wife. See Ex. J (Affidavit of H.A ¶ 5).

Mr. A provides comfort, love and guidance to his children. See Ex. L (Affidavit of A.A ¶ 5-8); Ex. M (Affidavit of O.A ¶ 2). In particular, K and her father are extremely close. They often go to see movies and eat out on weekends. And due to Mr. A’s connections working securities for movie producers, he was able to take K to movie premiers. See Ex. N (Affidavit of K.A ¶ 6-7). Mr. A provides steady financial support to K, opening a bank account for her and depositing in it regularly. See Ex. AA (Receipt of Deposit and Transfer into K.A’s Bank Account). K often accompanies her father when he needs to take her grandmother, G, to the hospital. As his wife says, “[a]nything that K needs, F will provide it.” See Ex. J (Affidavit of H.A ¶ 5).

Mr. A remains an essential part of the lives of his adult children as well. Mr. A sees his children often, as most of them live in the same neighborhood. His son A sees him three or four times a week, often stopping by his father’s apartment complex on the way to and from work. See Ex. L (Affidavit of A.A ¶ 4). Mr. A also works with two of his sons, O and F Jr., at the family auto body business. See Ex. M (Affidavit of O.A ¶ 6). They often work side by side together, and F is intricately involved in the running of the business. See Ex. M (Affidavit of O.A ¶ 6). His adult children maintain that their father is a role model, someone who has devoted his entire life to providing for his loved ones and emphasizing the importance of family relationships. See Ex. J (Affidavit of H.A ¶ 2); Ex. K (Affidavit of F.A Jr. ¶ 3); Ex. M (Affidavit of O.A ¶ 10). In that spirit, Mr. A’s sons try to all gather for their children’s birthdays to demonstrate to them the importance of family. See Ex. L (Affidavit of A.A).

Mr. A also plays a pivotal role in the lives of his grandchildren. He has always been close to his oldest grandson, O Jr. (the son of O). Whenever O Jr. returns home from college, he and his grandfather spend time together. See Ex. I (Affidavit of F.A ¶ 7); Ex. M (Affidavit of O.A ¶ 4); Ex. BB (Letter from O.A Jr.). O’s other children, ten-year-old A and six-year-old A, are “inseparable” from their grandfather, who they see almost every day. See Ex. I (Affidavit of F.A ¶ 7); Ex. M (Affidavit of O.A ¶ 4); Ex. CC (Letter from A.A). Mr. A also spends time every Sunday with A’s children, who come to G’s house after church to spend time with their grandfather and great-grandmother. See Ex. L (Affidavit of A.A ¶ 7). Mr. A also helps pitch in on buying school supplies for his grandchildren. See Ex. M (Affidavit of O.A ¶ 4).

Although Mr. A now resides with his mother to provide her with the care and attention she needs, he and his wife remain close and spend time together virtually every day. See Ex. I (Affidavit of F.A ¶ 12-13); Ex. J (Affidavit of H.A ¶ 4); Ex. M (Affidavit of O.A ¶ 7). Mr. A continues to provide financial and emotional support to H, who lives with
K in the same building with him. See Ex. I (Affidavit of F.A ¶ 12); Ex. J (Affidavit of H.A ¶ 4). They continue to have a good relationship, and H is extremely proud of the man he has become. Ex. J (Affidavit of H.A ¶ 9).

Mr. A has always valued the importance of family, but relationships with his loved ones took on an even greater meaning after his son W was killed in 1993. See Ex. I (Affidavit of F.A ¶ 10). W.A was killed at age 16, and Mr. A continues to mourn for his son. See Ex. L (Affidavit of A.A ¶ 10). Mr. A’s family maintains that after this traumatic event, Mr. A has dedicated himself to always knowing what is going on with his children and grandchildren. See Ex. L (Affidavit of A.A ¶ 5-8). His children, now adults, all describe how Mr. A has been there for them, throughout the good and the bad times in their life. See Ex. L (Affidavit of A.A ¶ 5-8); Ex. M (Affidavit of O.A ¶ 2). Mr. A continues to visit his son’s grave at St. Raymond’s Cemetery almost every Sunday. See Ex. I (Affidavit of F.A ¶ 10); Ex. M (Affidavit of O.A ¶ 9).

Mr. A’s family believe that he has repented for his mistakes, and are proud that he has maintained a clean record since 19__. See Ex. J-N (Affidavits). Therefore, having demonstrated good moral character, Mr. A should be strongly considered for naturalization.

Conclusion

Mr. A has been described by the people who know him best as a rehabilitated, hard-working family man, who cares deeply about others, his community, and most importantly, his family. The documents submitted here support this evaluation and show that Mr. A is a person of good moral character who is the primary caretaker for his elderly, ill U.S. citizen mother and who continues to provide needed financial and emotional support to his young daughter K. His convictions are from over 25 years ago and were nonviolent in nature. They do not bar him from establishing good moral character and are outweighed by his tremendous equities.

Therefore, for the reasons articulated above, we respectfully request that USCIS adjudicate Mr. A’s N-400 and approve his application to become a U.S. citizen as a matter of discretion.

If you have any questions or concerns, please do not hesitate to contact us at the number below. Thank you for your consideration.

Respectfully submitted,

___________________________
Jacqueline Pearce, Legal Intern
Jonathan Greisman, Legal Intern
Sonia R. Lin, Esq.
**Supporting Exhibits List**

Ex. A  G-28 Notice of Entry of Appearance as Attorney for Sonia Lin, Jonathan Greisman, and Jacqueline Pearce

Ex. B  Current Passport of F.A

Ex. C  Certificates of Disposition of F.A¹

Ex. D  Order Terminating Removal Proceedings, March 7, 20__

Ex. E  USCIS Policy Memorandum on Revised Guidance for the Referral of Cases and Issuance of Notice to Appear in Cases Involving Inadmissible and Removal Aliens, November 7, 2011


Ex. G  F.A Sr. Birth Certificate and Translation

Ex. H  F.A Sr. Alien Resident Card

Ex. I  Affidavit of F.A Sr.

Ex. J  Affidavit and ID of H.A, F.A Sr.’s Wife

Ex. K  Affidavit and Birth Certificate of F.A Jr., F.A Sr.’s Son

Ex. L  Affidavit and Birth Certificate of A.A, F.A Sr.’s Son

Ex. M  Affidavit and Birth Certificate of O.A, F.A Sr.’s Son

Ex. N  Affidavit and Birth Certificate of K.A, F.A Sr.’s Daughter

Ex. O  F.A Sr. Degree from __ College

Ex. P  F.A Sr. Degree from __ College

Ex. Q  __ Auto Collision & Repairs LLC Articles of Incorporation

Ex. R  Department of State Record of __ Auto Collision Repair Inc.

¹ All of the certificates of dispositions are original except for certificate of case number __, which is a copy. The original is being requested and will be mailed at the earliest possible time.
Ex. S  F.A Sr. Social Security Statements\textsuperscript{2}, Tax Documents, W-2s and Pay Stubs
Ex. T  Progress Notes and Prescriptions of G.A, F.A Sr.’s Mother
Ex. U  Power of Attorney
Ex. V  Medical Proxy and Translation
Ex. W  Marriage Certificate of F.A Sr. and H.A
Ex. X  Birth Certificate of K.A, F.A’s Son
Ex. Y  Picture ID of W.A
Ex. Z  Newspaper Article on the Death of W.A, F.A Sr.’s Son
Ex. AA  Receipt of Deposit into K.A’s Bank Account
Ex. BB  Letter from O.A Jr., F.A Sr.’s Grandson and ID
Ex. CC  Letter from A.A, F.A Sr.’s Grandson
Ex. DD  Affidavit of Dr. R.T

May 11, 2015

Officer: ISO King George III
US Citizenship and Immigration Services
26 Federal Plaza, 7th Floor
Attn: Naturalization Unit
New York, NY 10278

RE: N-400 Request for Evidence – Mr. George Washington – A# 07-14-1776

Dear Officer K. George,

Mr. George Washington, the applicant, through his undersigned counsel, replies to your Request for Evidence dated January 30, 2015 and states the following:

1. Mr. Washington request that this office rescinds the Request for Evidence (hereinafter “RFE”) issued on January 30, 2015 given that the evidence requested cannot be taken into consideration by USCIS in connection with Mr. Washington’s application for citizenship.

2. USCIS is only allowed to look into conduct and prior acts of Mr. Washington that took place outside of the 5 year statutory period ONLY if the conduct of Mr. Washington during the statutory period does not reflect that there has been reform of character from an earlier period or if the earlier conduct and acts appear relevant to a determination of the applicant’s present moral character. See 8 C.F.R. § 316.10 (2), pursuant to section 101(f) of the INA.

3. Mr. Washington’s application for citizenship was filed with USCIS on August 25, 2014. Therefore, the relevant 5 year statutory period started on August 25, 2009. During this entire time, Mr. Washington’s behavior does not indicate lack of reform or gives any indication of lack of good moral character; therefore, this office is legally bound to not take into consideration Mr. Washington’s conduct prior to that period.

4. Mr. Washington’s arrest and conviction referred in the RFE took place in 1996, which is 13 years before the beginning of the statutory period. During the past five
years, Mr. Washington has shown to be a model citizen and has not been arrested or convicted for any offense. In fact, the last time Mr. Washington was arrested for an offense was on March 23, 2007, about seven years before the filing of his application for naturalization. The charges in connection with that offense were dismissed.

5. Moreover, there have not been any other arrests, convictions, offenses, or any other conduct during the 5 years precedent to the filing of the application for naturalization that could trigger an inquiry into Mr. Washington’s good moral character beyond the statutory period.

6. For all the reasons stated above, Mr. Washington requests that the RFE issued on January 30, 2015 be rescinded and his application for naturalization be promptly adjudicated. Not rescinding the RFE in question would mean that USCIS is acting beyond its legal authority.

Please do not hesitate to reach out to me if you have any questions or concerns with regard to the requests made in this letter, or with any other matter related to Mr. Washington’s N-400 application for naturalization.

I can be reached by phone at 718-508-3428 (office), or by email at luism@bronxdefenders.org.

Thank you for the attention given to this matter.

Sincerely,

Luis Mancheno
Immigration Attorney
The Bronx Defenders
October 2, 2015

Tim Houghton, Field Office Director
U.S. Citizenship and Immigration Services
New York Field Office
Jacob K. Javits Federal Bldg.
26 Federal Plaza, Room 3-120
New York, NY 10278

Re: F.A, A#____
Notice of Intent to File Federal Suit Regarding the Delayed Adjudication of Mr. A’s N-400 Application

Dear Mr. Houghton:

Our client, F.A (“Mr. A”), A____, filed his N-400 application on ____.\(^1\) Mr. A was granted an interview on ____, which he passed, but was also informed in the decision letter received the next day, that “a decision cannot yet be made about your application.”\(^2\)

To this date, it has been over 680-days, substantially more than the 120-days required by 8 U.S.C. § 1447(b) for a decision to be made by USCIS regarding Mr. A’s application, and as a result, we are ready to initiate a § 1447(b) proceeding in federal court.\(^3\) Please be informed that we have made every possible effort to inquire as to the reason(s) for the delay. We requested Mr. A’s case status on the USCIS website, which simply says that his application is pending,\(^4\) and scheduled an Infopass appointment at the USCIS 26 Federal Plaza location on ____ , where we were told that Mr. A’s application is currently “pending mandatory security checks.”\(^5\) Regardless of this explanation, USCIS has still provided no time frame for adjudication at this point, Mr. A’s N-400 application has been pending for far too long, and we demand that his application be adjudicated as soon as possible.

If Mr. A’s N-400 application is not adjudicated within the next 30 days, we will proceed with the federal litigation. A copy of our draft complaint and exhibits are attached. Please do not hesitate to contact me at ____ or ______@yu.edu if you have any questions or information about this case that would help resolve the current situation. Our Form G-28s are attached. Thank you.

Sincerely,

_____________________
Andrea Saenz, Esq.

\(^1\) See Exhibit B.
\(^2\) See Exhibit C.
\(^3\) See draft complaint attached.
\(^4\) See Exhibit F.
\(^5\) See Exhibit G.
Clinical Teaching Fellow
Jacob Onile-Ere, Law Student
Kristine Koopman, Law Student
Immigration Justice Clinic
Benjamin N. Cardozo School of Law

Encl.

Complaint, A v. Johnson
APPENDIX E
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

F.A.,

Petitioner,

against-

JEH JOHNSON, in his official capacity as Secretary of the United States Department of Homeland Security, PHYLLIS COVEN, in her official capacity as District Director of the New York District, United States Citizenship and Immigration Services, and LEON RODRIGUEZ, in his official capacity as Director of United States Citizenship and Immigration Services,

Respondents.

COMPLAINT AND PETITION FOR NATURALIZATION HEARING

Plaintiff, F.A (hereinafter “Plaintiff” or “Mr. A”), through counsel, files the instant action under 8 U.S.C. § 1447(b) and alleges:

INTRODUCTION

1. This is an action seeking a hearing in this Court on Plaintiff’s application for naturalization, or in the alternative, an Order from the Court directing the defendants to complete the processing of the application and make a determination within 30 days.

2. Pursuant to Section 1447(b) of the United State Code, Title 8, United States Citizenship and Immigration Services (“USCIS”) is required to make a decision on an application for naturalization within 120 days of the naturalization examination. To this date, USCIS has failed to issue a decision, more than 680 days (22 months) since Mr. A passed his naturalization application.
3. Mr. A appeared for a naturalization interview with USCIS on ___. On the subsequent day, Mr. A was informed he had passed the required portions of the examinations. However, USCIS has not issued a decision on Mr. A’s application within 120 days of passing his naturalization examination; i.e., by or about by _____.

**JURISDICTION AND VENUE**

4. This action arises under 8 U.S.C. § 1447(b) and the Administrative Procedure Act (the “APA”), 5 U.S.C. §§ 701 et seq. Subject matter jurisdiction is based upon 28 U.S.C. § 1331. Relief is authorized by 8 U.S.C. § 1447(b), which provides that a naturalization applicant may apply to a United States District Court for a hearing on the application if USCIS fails to make a determination on the application within 120 days after conducting the examination.

5. The District Courts’ jurisdiction under 8 U.S.C. § 1447(b) is exclusive. Bustamante v. Napolitano, 582 F.3d 402 (2d Cir. 2009).

6. Venue is proper in the Southern District of New York pursuant to 8 U.S.C. § 1447(b), which requires the naturalization applicant to file the complaint with the “United States district court for the district in which the applicant resides.” Mr. A resides at ____, within the jurisdiction of the Southern District of New York.

**PARTIES**

7. Plaintiff, F.A, is a 63-year-old resident of New York who has been a lawful permanent resident (“LPR”) for __ years, since ___. Mr. A applied for naturalization on ____, and on ____, he passed all required portions of his naturalization interview and examination. He has been waiting for a decision on his application ever since that date.

9. Defendant Phyllis Coven is sued in her official capacity as the District Director of the New York District, United States Citizenship and Immigration Services. As District Director, she is designated by the Secretary of Homeland Security to administer and enforce the immigration laws within New York City. One of the duties of USCIS is the processing of naturalization applications. She maintains her office at 26 Federal Plaza, 3rd Floor, Room 3-120, New York, New York 10278.

10. Defendant León Rodríguez is sued in his official capacity as the Director of U.S. Citizenship and Immigration Services, a component agency within the U.S. Department of Homeland Security. USCIS is the agency responsible for the adjudication of applications for naturalization. His address is 20 Massachusetts Ave. NW, Washington, D.C. 20529.

LEGAL BACKGROUND

11. The Immigration and Nationality Act ("INA") provides, in general, for the admission, expulsion, regulation, and naturalization of noncitizens. 8 U.S.C. § 1101 et seq.

12. Title III, Chapter 2, of the INA provides for citizenship through naturalization. Pursuant to 8 U.S.C. § 1427(a):

   No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after
being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time, and who has resided within the State or within the district of the Service in the United States in which the applicant filed the application for at least three months, (2) has resided continuously within the United States from the date of the application up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

13. Pursuant to 8 U.S.C. § 1446 and 8 CFR § 316.14, after an application for naturalization is file, USCIS conducts an examination of the applicant. The examination is “limited to inquiry concerning the applicant’s residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law.” 8 U.S.C. § 1443(a); see also 8 U.S.C. § 1423 (requiring understanding of English, fundamentals of history and of government of the United States).

14. After USCIS conducts the examination under 8 U.S.C. § 1446, it has 120 days within which to make a determination on the application. 8 U.S.C. § 1447(b).

15. If USCIS fails to make a determination within 120 days, the applicant may apply to the United States district court for a hearing. 8 U.S.C. § 1447(b). The court may either make a determination on the application or remand the case back to USCIS with instructions to adjudicate the case. Id.
FACTS

16. Plaintiff F.A is a nearly life-long New Yorker who has been a lawful permanent resident of the United States for over 50 years. He was admitted into the United States as an LPR on ____, at the age of ten.

17. In ____, Mr. A was stopped by Customs and Border Protection (“CBP”) while returning from a short trip to the ______ with his elderly mother. At that time, the government initiated the first of Mr. A’s removal proceedings, wrongfully charging him as inadmissible under 8 U.S.C. § 1182(a)(2) on the basis of criminal convictions from the 19__s. Following clear Supreme Court precedent, Judge ___ of the New York Immigration Court terminated the removal proceedings on _____ because as a returning lawful permanent resident, Mr. A was not an applicant for admission upon his return from his brief trip and thus could not be charged as inadmissible. Vartelas v. Holder, 132 S. Ct. 1479 (2011). See Exhibit A – First Immigration Judge Order Terminating Proceedings.

18. Mr. A promptly filed a naturalization application on ____. See Exhibit B – N-400 Receipt Notice.

19. On _____, 2013, USCIS conducted Mr. A’s naturalization application interview pursuant to 8 U.S.C. § 1446. Mr. A was informed he had passed the examination the very next day. See Exhibit C – N-652, Naturalization Interview Results.

20. Pursuant to 8 U.S.C. § 1447(b), USCIS was required to issue a decision on Mr. A’s application by _____, 120 days after Mr. A’s examination.
21. In _____, while still awaiting a decision from USCIS, Immigration and Customs Enforcement (“ICE”) issued a Notice To Appear, initiating removal proceedings for a second time. Mr. A was charged as deportable under 8 U.S.C. § 1227.

22. Mr. A appeared in immigration court again and applied for relief from removal by seeking a discretionary waiver under former INA § 212(c), which is available to waive removability based on criminal convictions dating prior to 1996. Matter of Abdelghany, 26 I&N Dec. 254 (BIA 2014). Mr. A submitted voluminous documentary evidence of his decades of residence in the U.S., education and long history of employment and tax payment, significant rehabilitation since his offenses three decades prior, and close ties to his large family of U.S. citizens. He proffered a large number of character witnesses demonstrating that he deserved a favorable exercise of discretion. On _____, Mr. A was granted relief under INA § 212(c) and his removal proceedings were terminated. ICE did not appeal this order. See Exhibit D – Second Immigration Judge Order Terminating Proceedings.

23. Since the termination of Mr. A’s removal proceedings, counsel for Mr. A has repeatedly contacted USCIS, informing them that removal proceedings are no longer pending, inquiring as to the delay in Mr. A’s naturalization application, and urging USCIS to promptly adjudicate his application. See Exhibit E – Letter of Thomas Fritzsche, Esq., to USCIS with Second Immigration Judge’s Order.

24. On _____, counsel for Mr. A contacted USCIS regarding the delay with his naturalization application. On _____, USCIS issued a response to the inquiry saying, “Our records show that your N-400 application is currently pending adjudication. We regret that we are unable to provide you with a completion date at this time. We
apologize for the delay.” See Exhibit F – Customer Service Inquiry Response from USCIS (responding application was “pending”).

25. On ____ , Mr. A and counsel went to a USCIS “InfoPass” customer service appointment to inquire as to the current status of Mr. A’s N-400 application. USCIS informed Mr. A his application is still pending, and as of ____, his application was placed in “pre-decision” with security checks pending. See Exhibit G – USCIS Customer Service Unit Receipt. However, USCIS gave no time frame for the completion of checks or adjudication of the application.

26. To this date, more than 680 days (22 months) after the date of his naturalization interview, USCIS has not issued a decision regarding Mr. A’s naturalization application. Even discounting the time Mr. A was in his second removal proceedings, the application has been pending for over 240 days (8 months).

27. The delay in his application has caused Mr. A serious anxiety and difficulty. Mr. A is the medical proxy and power of attorney for G.A, his elderly, ill mother, who he currently lives with, to provide her with constant care and assistance. In prior years, Mr. A traveled to the ____ with his mother in the winters, allowing her to spend the harsh winters of New York in a warmer climate amongst family and friends. Since the Department of Homeland Security first wrongly initiated removal proceedings against Mr. A in ____, Mr. A and his mother have not traveled to the _____, or anywhere else outside the United States, out of concern that he may be further detained by ICE at the border. Mr. A seeks the security of U.S. citizenship, and would be proud to take the oath and become a citizen, but instead has been living in a state of constant uncertainty.
CLAIM FOR RELIEF

28. The allegations contained in paragraphs 1 through 10 and 16 through 27 above are repeated and realleged as though fully set forth herein.

29. The District Director’s failure to make a decision on Mr. A’s application for naturalization after more than 680 days is a violation of her statutory duty under 8 U.S.C. § 1447(b), which requires her to make a decision within 120 days of an examination conducted under 8 U.S.C. § 1446.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court either:

(1) Hold a hearing on the merits of Mr. A’s application for naturalization and grant the application if he is qualified; or

(2) Remand the matter to USCIS with an order to adjudicate his application within 30 days.

(3) Plaintiff also requests that the Court award Plaintiff his costs and reasonable attorney’s fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute; and

(4) Grant such further relief that this Honorable Court may deem just and proper.

Dated: New York, New York
October _____, 2015

Respectfully submitted,

________________________

Peter Markowitz, Esq.