

1 **U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA**

Formatted: Font: Times New Roman, 14 pt

2 **JEFFREY M. WILLETT,**) Case No.: 18-cv-01707 (TSC)

3)
4 **Plaintiff**)

5 vs.)

6 RELIEF)

) CIVIL RIGHTS COMPLAINT (*Bivens*)
) DECLARATORY AND INJUNCTIVE

7 **MICHAEL R. POMPEO,**)

) JURY TRIAL DEMANDED

8 In his official capacity as)

9 Secretary,)

10 U.S. DEPARTMENT OF STATE,)

11 2201 C Street NW)

12 Washington, DC 20520)

13 **JONATHAN M. ROLBIN,**)

14 Personally and in his official)

15 capacity as Director,)

16 **CHRISTINE I. McLEAN**)

17 Personally and in her official)

18 capacity as Acting Director,)

19 LAW ENFORCEMENT LIAISON DIVISION)

20 U.S. Department of State)

21 CA/PPT/S/L/LE)

22 44132 Mercure Circle)

23 PO Box 1227)

24 Sterling, VA 20166-1227)

25 **STEPHEN B. DIETZ, III**)

26 In his official capacity)

27 as Executive Director,)

28 BUREAU OF DIPLOMATIC SECURITY,)

U.S. Department of State)

2201 C Street NW)

Washington, DC 20522-2006)

MICHELE THOREN BOND)

Personally and in her official)

Amended Civil Rights Complaint/Bivens Action

Deleted: - 1

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

1 capacity as Acting Assistant)
2 Secretary,)
3 **JOHN D. WILCOCK**)
4 Personally and in his official)
5 capacity as Acting Consul General,)
6 BUREAU OF CONSULAR AFFAIRS,)
7 U.S. Department of State)
8 2201 C Street NW)
9 Washington, DC 20520)
10 **PATRICK P. O'CARROLL, JR.**)
11 Personally and in his official)
12 capacity as Inspector General,)
13 **GEORGE PENN**)
14 Personally and in his official)
15 capacity as Deputy Chief Counsel,)

Formatted: Tab stops: 2.62", Left + Not at 1.5"

Deleted: - 2

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: (Default) Times New Roman, 14 pt

1 **DOUGLAS ROLOFF**)
2 Personally and in his official)
3 capacity as Special Agent,)
4 **ADRIENNE C. MESSER**)
5 Personally and in her official)
6 capacity as Special Agent,)
7 **MATTHEW DEUCHLER**)
8 Personally and in his official)
9 capacity as Special Agent,)
10 U.S. SOCIAL SECURITY ADMINISTRATION)
11 OFFICE OF THE INSPECTOR GENERAL)
12 6401 Security Boulevard)
13 Gwynn Oak, Maryland 21207)
14)
15 **NANCY BERRYHILL**)
16 In her official capacity as)
17 ACTUAL OR ACTING COMMISSIONER OF)
18 SOCIAL SECURITY ADMINISTRATION)
19 6401 Security Boulevard)
20 Gwynn Oak, Maryland 21207)
21)
22 **JOHN DOE 1-10, inclusive,**)
23)
24 **Defendants**)
25)
26 **ALSO SERVE:**)
27 U.S. Attorney for the District of)
28 Columbia)
Civil Process Clerk)
555 Fourth Street NW)
Washington, DC 20530)
U.S. Attorney General)
c/o Justice Management)
Division)
950 Pennsylvania Avenue NW, Rm 1111)

Amended Civil Rights Complaint/Bivens Action

Deleted: 

Formatted: Font: (Default) Times New Roman, 14 pt

Deleted: - 3

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

1 Washington, DC 20530)
2)
3 U.S Department of State)
4 Executive Office of the Legal)
5 Advisor)
6 2201 C Street NW)
7 Washington, DC 20520-6310)
8)
9 Social Security Administration)
10 Office of the General Counsel)
11 6401 Security Boulevard)
12 Gwynn Oak, Maryland 21207)

13
14 **PRELIMINARY STATEMENT**

15 Plaintiff moves the Court for entry of judgment in his favor, as well as for
16 declaratory and injunctive relief, against the U.S. Department of State
17 (hereafter, "DOS"), Michael R. Pompeo; Law Enforcement Liaison Division
18 (hereafter, "LELD"), Jonathan M. Rolbin, Christine I. McLean; Bureau of
19 Diplomatic Security (hereafter, "DS"), Stephen B. Dietz, III; Bureau of
20 Consular Affairs (hereafter, "CA"), Michele Thoren Bond, John D. Wilcock;
21 U.S. Social Security Administration (hereafter, "SSA"); SSA Office of the
22 Inspector General (hereafter, "SSA OIG"), Patrick P. O'Carroll, Jr., George
23 Penn, Douglas Roloff, Adrienne C. Messer, Matthew Deuchler; John Doe 1-
24 10 (inclusive); and in support of such Complaint avers as follows:
25

26 **CAUSE OF ACTION**

- 27 1. This is a civil action brought under the U.S. Constitution and Bivens v. Six
28 Unknown Agents of Federal Bureau of Narcotics, 403 U.S. 388, 395-98
Amended Civil Rights Complaint/Bivens Action.

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: . 4

Formatted: Font: Times New Roman, 14 pt

(1971), seeking damages as well as declaratory/injunctive relief against Defendants for committing acts, under color of law, with the intent and for the purpose of depriving Plaintiff of rights, privileges, and immunities secured by the Constitution and laws of the United States.

2. Plaintiff claims that Defendants retaliated against Plaintiff for his exercise of constitutionally protected speech by revoking his passport through illegal, fraudulent, and erroneous means; conspired to deprive Plaintiff of both liberty and property without due process of law; and refused or neglected to prevent such deprivations and denials to Plaintiff.

JURISDICTION AND VENUE

3. This case arises out of the United States Constitution, as amended. This Court has subject matter jurisdiction over this cause of action pursuant to 28 U.S.C. §1331 and §1343(a)(1),(3). The declaratory and injunctive relief is authorized by 28 U.S.C. §2201 and §2202 and Rules 56 and 57 of the Federal Rules of Civil Procedure.

4. This Court is an appropriate venue for this cause of action pursuant to 28 U.S.C. §1391(e)(1), as some Defendants are officers or employees of the United States. Furthermore, the actions complained of took part in this judicial district; evidence and passport records relevant to the allegations are maintained in this judicial district; and Defendants regularly conduct business in this judicial district.

STATUTE OF LIMITATIONS

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 5

Formatted: Font: Times New Roman, 14 pt

1 5. This case falls within the applicable Statute of Limitations. This case arises
2 out of a violation of Plaintiff's constitutionally protected rights as a Bivens
3 action. Federal law determines when a Bivens claim accrues, and the law of
4 the forum state determines the statute of limitations for such a claim. In the
5 District of Columbia, the time period for filing a personal injury or not
6 otherwise identified claim is three (3) years (District of Columbia Code Division
7 II. Judiciary and Judicial Procedure § 12-301. Limitation of time for bringing actions). A
8 claim begins to accrue at the time injury occurred or is discovered. (CTS
9 Corp. v. Waldburger, 134 S.Ct. 2175, 2182 (2015)).
10

11 6. Here, injury to Plaintiff's constitutionally protected rights was only
12 discovered following a Freedom of Information Act (hereafter, "FOIA")
13 request and the release of a first (and limited) batch of documents on July
14 10, 2015 (and received on July 23, 2015). As such, the three-year accrual
15 period began on this date and Plaintiff's current action falls within the
16 statute of limitations period.
17

18 PARTIES

19 7. Plaintiff Jeffrey M. Willett currently resides in Amsterdam, the Netherlands
20 (hereafter, "NL"), following revocation of his U.S. passport No. 218029753.
21

22 8. Defendant DOS is a political subdivision of the U.S. Government and a
23 "person" subject to suit within the meaning of 42 U.S.C. §1983. DOS is
24 vested with the authority to grant, issue, and revoke U.S. passports under
25 specific conditions limited by law.
26

27 9. Defendant Pompeo is the current Secretary of State for DOS; as such, he has
28 authority over DOS policies, and responsibility for ensuring its compliance

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -6

Formatted: Font: Times New Roman, 14 pt

with all legal requirements. He is sued in his official capacity.

10. Defendant LELD is a political subdivision of the U.S. Government and DOS and a “person” subject to suit within the meaning of 42 U.S.C. §1983. LELD is vested through DOS with the authority to enforce laws pertaining to U.S. passports under specific conditions limited by law.

11. Defendant Jonathan M. Rolbin is the Director of LELD and responsible for all matters related to the revocation of Plaintiff’s U.S. passport, including compliance with all legal requirements. He is sued in his individual capacity and in his official capacity.

12. Defendant Christine I. McLean was the Acting Director of LELD who approved and signed the letter revoking Plaintiff’s U.S. passport on December 20, 2012. She had authority over all LELD policies and responsibility for ensuring its compliance with all legal requirements. She is sued in her individual capacity and in her official capacity.

13. Defendant DS is a political subdivision of the U.S. Government and DOS and is a “person” subject to suit within the meaning of 42 U.S.C. §1983. DS serves as advisor on all administrative, management, and resource management matters affecting diplomatic security.

14. Defendant Stephen B. Dietz, III is the Director of DS and responsible for the investigation leading to the revocation of Plaintiff’s U.S. passport. He has authority over all DS policies and responsibility for ensuring its compliance with all legal requirements. He is sued in his official capacity.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 7

Formatted: Font: Times New Roman, 14 pt

- 1 15. Defendant CA is a political subdivision of the U.S. Government and DOS
2 and a “person” subject to suit within the meaning of 42 U.S.C. §1983. CA is
3 vested through DOS with the authority to strengthen the security of U.S.
4 borders through the vigilant adjudication of visas and passports.
5
- 6 16. Defendant Michele Thoren Bond has been the Acting Assistant Secretary for
7 CA since April 2014 and the person responsible for protecting the interests
8 of U.S. citizens abroad, including those entitled to a post-revocation hearing.
9 She has authority over all CA policies and responsibility for ensuring its
10 compliance with all legal requirements She is sued in her individual capacity
11 and in her official capacity.
12
- 13 17. Defendant John D. Wilcock was the Acting Consul General of the U.S.
14 Consulate in Amsterdam (hereafter, “USCA”) and the person responsible for
15 holding Plaintiff’s post-revocation hearing; as such, he was responsible to
16 ensure USCA complied with all legal requirements for a hearing. He is sued
17 in his individual capacity and in his official capacity.
18
- 19 18. Defendant SSA OIG is a political subdivision of the U.S. Government and a
20 “person” subject to suit within the meaning of 42 U.S.C. §1983. SSA OIG is
21 vested with the authority to conduct investigations specifically related to the
22 administration of SSA programs.
23
- 24 19. Nancy Berryhill was the Acting Commissioner of the SSA since January 21,
25 2017, with authority over SSA policies and responsibility for ensuring its
26 compliance with all legal requirements. She is sued in her official capacity.
27
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 8

Formatted: Font: Times New Roman, 14 pt

1 20. Defendant Patrick P. O'Carroll, Jr., is the SSA Inspector General and the
2 person responsible for overseeing the investigation of Plaintiff. He is sued in
3 his individual capacity and in his official capacity.

4
5 21. Defendant George Penn was the Deputy Chief Counsel of SSA OIG who
6 refused to open an investigation into waste, fraud, or mismanagement
7 requested by Plaintiff, but who, on information and belief, directed an
8 unauthorized investigation to be opened against Plaintiff. He is sued in his
9 individual capacity and in his official capacity.

10
11 22. Defendants Douglas Roloff, Adrienne Messer, and Matthew Deuchler are
12 SSA OIG special agents who surreptitiously conducted the investigation
13 against Plaintiff and threatened Plaintiff with arrest unless he dropped his
14 SSA complaint. They are sued in their individual capacities and in their
15 official capacities.

16
17 23. On information and belief, John Doe 1-10, inclusive, conspired with
18 Defendants to defraud Plaintiff of his rights, liberty, and property, as alleged
19 in the Cause of Action. Plaintiff is ignorant of the full names and capacities
20 of said Defendants, but will amend this complaint to allege their true full
21 names and capacities when ascertained. John Does 1-10 are being sued in
22 their individual capacities and in their official capacities.

23
24 24. At all times relevant, Defendants acted under color of law.

25 **FACTS SUPPORTING CAUSES OF ACTION**

26
27 **I. PLAINTIFF LAWFULLY APPLIES FOR NAME CHANGE**

28 25. On July 26, 2005, Plaintiff (formerly known as "Michael James Kocik")

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -9

Formatted: Font: Times New Roman, 14 pt

1 applied for a name change in Clark County, NV, through his licensed
2 attorney, Shawn Christopher (NV Bar No. 6252).

3
4 26. On December 13, 2005, the Clark County Courts' (hereafter, "CCC") Judge
5 (Sandra L. Pomrenze) assigned to Case No. 05D345320 signed an order
6 legally approving a name change for Plaintiff to "Jeffrey Michael Willett."

7
8 27. At 9:36 AM on December 15, 2005, the signed Order For Change Of Name
9 was stamped as received by CCC for filing. (See **Exhibit A.**)

10
11 28. On January 9, 2006, Attorney Christopher notified Plaintiff (hereafter known
12 as "Jeffrey M. Willett") that he had obtained "the court order for the name
13 change" and ordered certified copies for Plaintiff's use.

14
15 29. On May 9, 2006, Plaintiff applied for a new U.S. passport, submitting an
16 original certified copy of the Order For Change Of Name pursuant to 22
17 CFR §51.24 ("An applicant whose name has been changed by court order . .
18 . shall submit with his or her application a certified copy of the order"); his
19 current passport (No. 214233441), issued on June 25, 2005; DS-11
20 application form; and required fees.

21
22 30. On May 16, 2006, DOS issued Plaintiff Passport No. 218029753 under his
23 changed name.

24 **II. SSA OIG, DOS, DS, AND LELD ROLES IN REVOKING**

25 **PLAINTIFF'S PASSPORT**

26
27 31. In July 2009, Plaintiff met a Romanian student (Roxanne Silvia Ciopei) who
28 worked in the United States for three out of four summers between 2005 and
2008 on a J1 Work and Travel Visa.

Amended Civil Rights Complaint/Bivens Action

Deleted: P

Formatted: Font: Times New Roman, 14 pt

Deleted: - 10

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

- 1 32. Although Ciopei completed all paperwork properly, SSA not only issued a
2 social security card with her name misspelled (Roxana Silyia Ciodei), but
3 also gave her wrong numident information (xxx-xx-9236) to the Internal
4 Revenue Service (hereafter, "IRS").
- 5
- 6 33. Due to SSA error, IRS issued refund checks (including one in 2008 for
7 \$1033) to Ciopei in the wrong name, which could not be cashed by her.
- 8
- 9 34. Ciopei spent four years trying to correct SSA errors, without success.
- 10
- 11 35. After obtaining a Power of Attorney (hereafter, "POA"), Plaintiff contacted
12 the SSA, who agreed to issue Ciopei a new corrected social security card, as
13 well as to ensure the IRS issued new checks, if she returned all wrong
14 documents (including IRS checks) to the U.S. Embassy in Bucharest.
- 15
- 16 36. Ciopei paid a special courier to send all requested documents, thus honoring
17 her part of the agreement. Once received, however, SSA reneged on the
18 agreement, refused to honor the POA or talk further with Plaintiff, and
19 declined to issue Ciopei a new card or contact the IRS on her behalf to
20 correct its own errors.
- 21
- 22 37. Plaintiff attempted to file a complaint through the SSA, but was rebuffed
23 repeatedly by upper management. (See **Exhibit B**, letter from Defendant
24 O'Carroll to Congressman Tom Perriello, dated August 6, 2010.)
- 25
- 26 38. Plaintiff then escalated his concerns to the SSA OIG (Defendant Penn), who
27 not only refused to open an investigation, but, on information and belief,
28 surreptitiously sent three Federal special agents (Defendants Roloff, Messer,
and Deuchler) to Plaintiff's home on May 13, 2010, threatening Plaintiff

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 11

Formatted: Font: Times New Roman, 14 pt

1 with arrest unless he agreed to drop his complaint. Plaintiff declined to do
2 so.

3
4 39. Only through the disclosure of documents in response to his FOIA request,
5 Plaintiff found out that beginning on or about February 24, 2011, Defendant
6 O'Carroll authorized SSA OIG to launch a criminal investigation against
7 Plaintiff not otherwise authorized by the SSA OIG Mission Statement ("of
8 promoting economy, efficiency, and effectiveness in the administration of . .
9 . SSA programs and operations and to prevent and detect fraud, waste,
10 abuse, and mismanagement in such programs and operations").

11
12 40. Only through the disclosure of documents in response to his FOIA request,
13 Plaintiff found out that SSA OIG personnel also contacted DS (Defendant
14 Dietz) to open a joint criminal investigation (PF-2011-00862) in which
15 Plaintiff was wrongfully accused of passport fraud.

16
17 41. On March 1, 2011, a Passport Records Release Form (PRRF) shows one
18 unnamed special agent (hereafter, "John Doe 1") accessing Plaintiff's
19 passport records.

20
21 42. Although said PRRF specifies that "no papers are to be taken from the file,"
22 both attachments sent with Plaintiff's May 9, 2006, DS-11 passport
23 application (i.e., original certified copy of the Order For Change Of Name;
24 current passport No. 214233441) have since gone 'missing' from Plaintiff's
25 passport file.

26
27 43. DOS has not released any records to show that anyone other than John Doe
28 1 accessed Plaintiff's passport files between May 9, 2006, and December 20,
2012.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 12

Formatted: Font: Times New Roman, 14 pt

- 1 44. DS/SSA OIG personnel (i.e., “John Doe 1-10”) convened a Grand Jury to
2 issue broad subpoenas (e.g., 10-4/11GJ1710/11-1156) to obtain intrusive
3 confidential information about Plaintiff, including (but not limited to) bank
4 records, credit reports, credit card statements, travel records, driver’s license
5 printouts, and phone records.
- 6
- 7 45. DS/SSA OIG personnel also extended their intimidation tactics against
8 Plaintiff by sending agents to the homes and businesses of Plaintiff’s family
9 and friends. There agents demanded that evidence to be used against
10 Plaintiff be provided and issued subpoenas to appear.
- 11
- 12 46. In the two years in which DS/SSA OIG personnel conducted their
13 investigation, no incriminating evidence ever was obtained against Plaintiff,
14 nor was Plaintiff formally accused (or found guilty) of any crimes.
- 15
- 16 47. On October 26, 2011, the US Attorney for Eastern Virginia (EDVA)
17 declined prosecution and refused to bring any criminal charges against
18 Plaintiff.
- 19
- 20 48. Ignoring EDVA refusal to act, DS/SSA OIG personnel continued a pattern
21 of harassment against Plaintiff for one year further and persisted in its
22 surreptitious investigation against Plaintiff and attempts to coerce
23 prosecutors in New Hampshire to pursue legal action against him. (See
24 **Exhibit C**, DSS Case Summary 05/14/2015.)
- 25
- 26 49. On information and belief, once DS/SSA OIG personnel were unable to
27 produce any valid evidence against Plaintiff, special agents decided to
28 ‘invent’ and ‘destroy’ evidence with the avowed intent of circumventing the
law and causing harm to Plaintiff.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 13

Formatted: Font: Times New Roman, 14 pt

1 50. Only through the disclosure of documents in response to his FOIA request,
2 Plaintiff found out that on November 5, 2012, an unnamed DS/SSA OIG
3 special agent sent a memo to CA falsely claiming that “irrespective of any
4 criminal prosecution,” Plaintiff was not entitled to a U.S. passport “by virtue
5 of a fraudulent supporting document” and that his current passport needed to
6 be revoked because Plaintiff had “provided a forged Clark County, Nevada,
7 'change of name' court order when he applied for a passport.”
8

9 51. In fact, there was no evidence that the 2005 Order For Change Of Name ever
10 was forged or fraudulent, and claims otherwise were demonstrably false and
11 fraudulent.
12

13 52. On information and belief, on December 20, 2012, Defendants DOS
14 (Pompeo), CA, DS, and LELD (Rolbin, McLean) acted in concert to revoke
15 Passport No. 218029753, thereby retaliating against Plaintiff for his exercise
16 of constitutionally protected speech (i.e., to silence his criticism of the
17 agency in the Ciopei matter).
18

19 53. The DS/SSA OIG criminal case against Plaintiff was formally closed
20 without prosecution as of March 26, 2013.
21

22 **III. DOS, LELD, AND CA REVOKE PLAINTIFF’S PASSPORT**

23 54. On August 12, 2014, Plaintiff applied to USCA to have extra visa pages
24 added to Passport No. 218029753, supplying a DS-4085 application along
25 with the proper fees (€62) paid in cash. (See **Exhibit D.**)
26

27 55. Upon his return that afternoon, Plaintiff was informed by USCA that his
28 passport was ‘not ready’ and that he would have to return another day.

1 56. From August 12 to August 14, Plaintiff asked USCA by electronic mail
2 (“email”) to confirm if the service paid for had been performed.

3
4 57. On August 14, 2014, USCA employees falsely claimed by email that
5 “the service has been completed” and stated that they would “not be
6 responding to any more emails.” In fact, the service never was performed,
7 nor were the fees paid ever refunded, in violation of 22 CFR §§13.1,
8 22.6(a)(2), and §22.6(b).

9 58. On August 20, 2014:

10
11 a) Plaintiff returned to USCA to collect his passport, but was advised that a
12 ‘problem’ had arisen when reviewing Plaintiff’s application.

13
14 b) USCA employees informed Plaintiff that he would be handed a letter
15 explaining the problem only after signing a receipt in advance. Said
16 receipt specified that it had to be signed in the presence of a notary,
17 although no notary was present at the time of signing.

18
19 c) Plaintiff signed two (2) copies of said receipt and returned both copies to
20 USCA employees, without receiving a copy in return.

21
22 d) USCA employees then handed Plaintiff a letter dated December 20,
23 2012, signed by Defendant McLean, Acting Director of Legal Affairs for
24 LELD). (See **Exhibit E.**)

25 59. In the letter dated December 20, 2012, McLean claimed that Plaintiff’s
26 Passport No. 218029753 had been revoked pursuant to 22 CFR §51.62(a)(2)
27 because “it has been determined that . . . the passport was obtained illegally,

28
Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 15

Formatted: Font: Times New Roman, 14 pt

1 fraudulently or erroneously,” based on “new evidence” contained in two
2 separate allegations:

- 3
4 a) McLean alleged that the first basis for revocation arose because a DOS
5 investigation found that “the District Court of Clark County has no
6 record of your name change or of the court document you provided in
7 support of your passport application.”
- 8
9 b) McLean did not attach any documents verifying an investigation had
10 been conducted, or any sworn statement made by CCC claiming that the
11 record stamped as received for filing by CCC at 9:36 AM on December
12 15, 2005, no longer existed.
- 13
14 c) McLean did not cite any statute whereby Plaintiff had a legal obligation
15 to control, or be responsible for, recordkeeping in CCC.
- 16
17 d) McLean alleged that the second basis for revocation arose because a
18 DOS investigation found that “further government records indicate that
19 you continue to identify yourself to government authorities as Michael
20 James Kocik, and not as Jeffrey Michael Willett.”
- 21
22 e) McLean did not cite any specific government records at issue, thereby
23 preventing Plaintiff from contesting this vague allegation, in violation of
24 22 CFR §51.65(a) (“notification will set forth the specific reasons for the
25 denial or revocation”).
- 26
27 f) McLean concluded that the revocation was based on “the totality of the
28 circumstances” cited in the above two allegations, with no other issues
declared.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 16

Formatted: Font: Times New Roman, 14 pt

1 60. Plaintiff was not aware of the revocation of Passport No. 218029753 until
2 August 20, 2014, when USCA employees handed him McLean's letter, nor
3 did he have any reason to previously suspect otherwise. (See **Exhibit F.**)
4

5 **IV. STEPS TAKEN TO PROVE REVOCATION WAS ILLEGAL,**
6 **FRAUDULENT, AND IN ERROR**

7 61. On August 20, 2014:

- 8 a) Plaintiff retained Attorney Bart Stapert in Amsterdam to challenge the
9 notice of revocation received that same day.
10
11 b) Attorney Stapert contacted Attorney Christopher at the same phone
12 number and fax listed on the 2005 Order For Change Of Name.
13 (Compare <http://bklasvegas.com/bkprofile.html> with **Exhibit A.**)
14
15 c) Attorney Christopher immediately sent Attorney Stapert "a digital file of
16 the name change petition, including a copy of the court order, dated
17 December 13, 2005, formally changing" Plaintiff's name. (See **Exhibit**
18 **G.**)
19
20 d) Attorney Stapert then asked NV attorney Mace Yampolsky to send a
21 paralegal to CCC to investigate why the original Order For Change Of
22 Name, stamped as received for filing by CCC at 9:36 AM on December
23 15, 2005, was 'missing'.
24
25 e) Paralegal Theresa Muzgay informed Attorney Stapert that, within one (1)
26 hour of arriving at CCC, the allegedly 'nonexistent' court order and
27 accompanying court documents were found, although misfiled under a
28 wrong name. (See **Exhibit H.**)

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt

Formatted: Font: Times New Roman, 14 pt

Deleted: - 17

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

1 62. Plaintiff subsequently went online to the CCC website, entered Case No.
2 05D345320, and found the ‘missing’ record in a few seconds. (See
3 <https://www.clarkcountycourts.us/Anonymous/Search.aspx>.)

Formatted: Font: Times New Roman, 14 pt

Formatted: Font: Times New Roman, 14 pt

4
5 63. On September 3, 2014, a duplicate certified copy of the Order For Change
6 Of Name was obtained and stamped as original. (See **Exhibit I**.)

7 64. The 2014 certified copy of the Order For Change Of Name not only is
8 identical to the 2005 certified copy submitted by Plaintiff to DOS on May 9,
9 2006, but also to the 2005 Order stamped as received for filing by CCC at
10 9:36 AM on December 15, 2005 (and now ‘missing’ from Plaintiff’s
11 passport files).

12
13 65. All information obtained by Attorney Stapert could easily have been
14 obtained by Defendants if they had conducted a proper investigation and
15 acted as a reasonably prudent person is expected to act under law.

16
17 66. On information and belief, Defendants did not contact any of the below
18 individuals at any time between May 9, 2006, and December 20, 2012,
19 before revoking Plaintiff’s passport:

20 a) CCC Judge Pomrenze, who signed the original certified copy of the 2005
21 Order For Change Of Name, thus proving it was not illegal.

22
23 b) CCC notary who verified that the 2005 Order For Change of Name
24 submitted by Plaintiff was a “true and correct copy of the document on
25 file,” thus proving it was not fraudulent.

26
27 c) NV attorney Shawn Christopher, who processed the name change, thus
28 proving that it was not in error.

Deleted: - 18

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

Amended Civil Rights Complaint/Bivens Action

1 d) Plaintiff, who could have easily provided assistance in locating the lost
2 record by providing the relevant case number, names and information to
3 agents, thus proving that it was not invalid.

4
5 67. Defendants had a duty to conduct a proper investigation before revoking
6 Plaintiff's Passport No. 218029753, and their failure to do so not only was
7 grossly negligent, but also illegal, fraudulent, and in error.

8 68. As a result Plaintiff has suffered considerable damages.

9
10 **V. REQUEST FOR POST-REVOCATION HEARING**

11 69. On September 12, 2014:

12 a) Attorney Stapert contacted Randy W. Berry, Consul General of USCA,
13 explaining the steps taken to prove that Plaintiff had obtained the Order
14 For Change Of Name legally, properly, and without error. (See **Exhibit**
15 **G.**)

16
17 b) Attorney Stapert requested a post-revocation hearing through CA (under
18 the supervision of Defendant Thoren Bond) pursuant to 22 CFR §51.70:
19 "A person whose passport has been . . . revoked under . . . §51.62(a)(2)
20 may request a hearing to the Department to review the basis for the . . .
21 revocation within 60 days of receipt of the notice of . . . revocation."
22 Thus, said request for a post-revocation hearing was timely under law.

23
24 c) In order to mitigate damages, Attorney Stapert also requested that
25 Plaintiff be issued a temporary travel document ("laissez-passer") while a
26 post-revocation hearing was pending.

1 d) USCA acknowledged receipt of the hearing request, along with the
2 request for a temporary travel document, stating that it had “forwarded
3 the request to the appropriate office at the Department of State in
4 Washington, DC.”
5

6 70. On September 18, 2014, Romana Michiels from Attorney Stapert’s office
7 spoke with Grant Phillipp, USCA Vice Consul, who informed Michiels that
8 DOS “decided that [Plaintiff was] not eligible for any kind of temporary
9 travel document.” No reason was given for the refusal.
10

11 **VI. DOS REISSUES PASSPORT WITHOUT RAISING EITHER** 12 **REVOCATION ISSUE**

13 71. DOS has no mechanism in place to deal with illegal, fraudulent, or
14 erroneous revocations, other than to force injured parties to wait 60 days for
15 a hearing pursuant to 22 CFR §51.70(c).
16

17 72. On September 18, 2014, Vice Consul Phillipp contacted Attorney Stapert’s
18 office to induce Plaintiff to apply for a new passport, while waiting for the
19 outcome of a post-revocation hearing.

20 73. On information and belief, DOS was aware that Plaintiff’s Passport
21 No. 218029753 already had been sent for destruction and knowingly chose
22 not to advise Plaintiff or his attorney of that fact when offering Plaintiff a
23 ‘choice’ that, in fact, did not exist.
24

25 74. Attorney Stapert advised Plaintiff that he could apply for a new passport,
26 without waiving any claims or damages against Defendants, or the statutory
27 right to a post-revocation hearing.
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -20

Formatted: Font: Times New Roman, 14 pt

- 1 75. On September 22, 2014, Attorney Stapert contacted Vice Consul Phillipp,
2 asking not only for a reduction in passport fees, but also a temporary travel
3 document so that Plaintiff could travel freely. Vice Consul Phillipp did not
4 comply with either request.
- 5
- 6 76. On September 23, 2014, Plaintiff applied for a new passport, submitting to
7 USCA employees a DS-11 application form, fees (€108), and the same
8 original certified copy of the 2005 Order For Change Of Name already in
9 DOS possession since May 2006.
- 10
- 11 77. On September 29, 2014, USCA notified Attorney Stapert that Plaintiff's
12 "new passport is ready for collection."
- 13
- 14 78. On September 30, 2014, Plaintiff collected new Passport No. 505869857.
- 15
- 16 79. At no time before issuing Plaintiff new Passport No. 505869857 did DOS,
17 LELD, DS, or CA question the validity of the duplicate Order For Change
18 Of Name already in their possession since May 2006, which was the first
19 basis for revocation cited by McLean on December 20, 2012.
- 20
- 21 80. At no time before issuing Plaintiff new Passport No. 505869857 did DOS,
22 LELD, DS, or CA raise the second basis for revocation (i.e., "that you
23 continue to identify yourself to government authorities as Michael James
24 Kocik") cited by McLean on December 20, 2012.
- 25
- 26 81. At no time between revocation of Plaintiff's Passport No. 218029753 in
27 2006 and issuance of the new Passport No. 505869857 in 2014 did DOS,
28 LELD, DS, or CA cite any intervening, superseding or other circumstance as

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -21

Formatted: Font: Times New Roman, 14 pt

1 a basis for approval, nor did Plaintiff provide any documentation other than
2 the duplicate Order For Change Of Name.

3
4 82. Therefore, the joint revocation of Plaintiff's Passport No. 218029753 by
5 DOS, LELD, DS, or CA had no basis in fact or law and was motivated by
6 extralegal reasons not contemplated by statute.

7 **VII. DOS DESTROYS PLAINTIFF'S OLD PASSPORT PRIOR TO POST-**
8 **REVOCATION HEARING**

9
10 83. On September 30, 2014, Plaintiff requested the return of old Passport No.
11 218029753, which contained vital entry/exit stamps and visas necessary to
12 cross borders, but Vice Consul Phillipp stated that USCA had been ordered
13 to "return it for destruction."

14 84. That same day, Attorney Stapert contacted Phillipp and requested
15 confirmation as to the status of said passport, as well as a mitigating letter
16 "stating that Mr. Willett's old passport was 'inadvertently' destroyed in the
17 process of issuing a new one."

18
19 85. In response, Phillipp responded that he had "forwarded this request to the
20 Department in Washington."

21 86. On October 8, 2014, Phillipp informed Attorney Stapert that Plaintiff's
22 "passport was sent for destruction by the Department, so there is no way to
23 retrieve it."

24
25 87. 22 CFR §51.66 specifies that "the bearer of a passport that is revoked must
26 surrender it to the Department or its authorized representative upon
27 demand." There is no requirement in 22 CFR, however, authorizing
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 22

Formatted: Font: Times New Roman, 14 pt

1 destruction of a revoked passport when a post-revocation hearing to
2 determine its status is requested in a timely manner, and said hearing is
3 pending at the time of destruction.
4

5 **VIII. DOS COMPELS PLAINTIFF TO FILE AN FOIA REQUEST, THEN**
6 **IGNORES IT**

7 88. On October 14, 2014, pursuant to 5 U.S.C. §552, Plaintiff filed a FOIA
8 request to obtain the entire contents of his passport file, as well as all
9 documents DOS allegedly used as grounds for revocation of his passport.

10 89. DOS acknowledged receipt of Plaintiff's FOIA request the following day
11 and forwarded the request to LELD for processing. (See **Exhibit J.**)
12

13 90. Pursuant to 5 U.S.C. §552(a)(6)(A)(i), DOS must "determine within 20 days
14 (excepting Saturdays, Sundays, and legal public holidays) after the receipt of
15 any such request whether to comply with such request and shall immediately
16 notify the person making such request of such determination and the reasons
17 therefor, and of the right of such person to appeal to the head of the agency
18 any adverse determination."
19

20 91. At no time during the 20-day statutory period did DOS or LELD either make
21 such a determination, reject the FOIA request, release documents, or provide
22 any basis for withholding evidence.
23

24 92. On January 2, 2015, Defendant Wilcock claimed that he would check with
25 his "colleagues in Washington . . . [to] see if they can get an estimate of how
26 long the FOIA request will take." In fact, Defendant Wilcock never obtained
27 any information on behalf of Plaintiff.
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -23

Formatted: Font: Times New Roman, 14 pt

- 1 93. On January 13, 2015, Defendant Wilcock confirmed that “the FOIA process
2 is the only mechanism by which documents can be released” by DOS.
- 3
- 4 94. Between November 17, 2014, and March 7, 2015, Plaintiff contacted DOS
5 and LELD approximately 11 times (including two separate faxes to FOIA
6 Public Liaison Marianne Manheim) to obtain information about his FOIA
7 request. DOS and LELD did not respond to any of those communications.
- 8
- 9 95. On March 9, 2015, Marianne Manheim advised Attorney Stapert that “there
10 is no valid FOIA on record,” although she confirmed that DOS never raised
11 objections within the 20-day statutory period: “However, a letter is typically
12 provided to a requester when a case does not meet requirements. It appears
13 that this letter was not sent.”
- 14 96. DOS or LELD failure to comply with 5 U.S.C. §552(a)(6)(A)(i) does not
15 impose any legal obligations on Plaintiff as a result of that joint negligence.
- 16
- 17 97. As a courtesy, Attorney Stapert faxed a duplicate copy of Plaintiff’s FOIA
18 request to DOS on March 10, 2015, but without consenting to any change in
19 tolling periods from the original request.
- 20
- 21 98. On March 20, 2015, DOS replied to Plaintiff’s FOIA request without
22 releasing any requested documents, or specifying any exemptions for
23 withholding the documents asked for. (See **Exhibit K.**)
- 24
- 25 99. Plaintiff was invited to file a blind ‘appeal’ without knowing the basis for
26 denial, although DOS bears the burden of specifying why specific records
27 are being withheld. (See 5 U.S.C. §552(a)(4)(B).)
- 28 100. Plaintiff’s concerns (dated April 21, 2015) were elevated within DOS to

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -24

Formatted: Font: Times New Roman, 14 pt

Karen Finnegan Meyers (Chief, Programs and Policies Division).

101. On May 20, 2015, Meyers acknowledged problems with filling Plaintiff's FOIA request, stated that the Office of Passport Services (PPT) had "agreed to conduct another search of its records systems based on the . . . information you provided," and gave Plaintiff until June 20, 2015, to file an administrative appeal.

102. On June 3, 2015, Manheim stated that PPT still was working on Plaintiff's FOIA request, but thought the "first response will be sent within a few weeks."

103. That same day, however, Katrina Wood from the FOIA Requester Service Center informed Plaintiff that "The estimated completion date (ECD) for this case is: December 2016", some 18 months later.

104. On June 4, 2015, Manheim advised Plaintiff that as searches were still "ongoing . . . that you wait to file an appeal until after all searches are completed" (i.e., after December 2016).

105. On July 10, 2015, DS released a second batch of FOIA documents, partially satisfying only two (2) of the 17 batched items requested.

106. To date, the overwhelming balance of Plaintiff's FOIA request continues to be ignored. In fact, Plaintiff was advised by FOIA Appeals Officer Lorraine Hartmann on December 13, 2019, that searches for relevant records was continuing, more than five (5) years after the fact, thereby preventing Plaintiff from reviewing all available evidence and ascertaining the exact

1 parties responsible for his injuries, including the roles of all high-ranking
2 individuals named herein in causing those injuries.

3
4 **IX. 'MISSING' RECORDS**

5 107. On March 10, 2015, Defendant Wilcock sent Attorney Stapert an email,
6 stating categorically that Plaintiff's FOIA request would not "include
7 anything related to the revocation" of his passport and also flatly predicted
8 that Plaintiff's files only would contain his "passport application".

9 108. The DOS privacy policy states that, "under the provisions of the FOIA and
10 Privacy Act, access to information about private individuals cannot be given
11 to unauthorized third parties absent the individuals' written consent."

12 109. Plaintiff never gave anyone at DOS written consent to discuss his FOIA
13 request with Defendant Wilcock, or any other third party.

14 110. Oddly enough, the only materials sent to Plaintiff by DOS on March 20,
15 2015, were incomplete copies of his 2006 and 2014 passport applications, as
16 Defendant Wilcock had predicted would be 'found'.
17

18 111. Plaintiff submitted two documents in attachment with his 2006 passport: (1)
19 his current passport (No. 214233441), and (2) an original certified copy of
20 the 2005 Order For Change Of Name, stamped as received by CCC at 9:36
21 AM on December 15, 2005.
22

23 112. DOS sent neither attachment, although both documents are noted as received
24 in Plaintiff's 2006 passport application. (See **Exhibit L.**)
25
26

1 113. Furthermore, none of the alleged 'hearing evidence' belatedly released by
2 Defendant Wilcock on December 12, 2014 (see paragraph 131), was in
3 Plaintiff's passport file.

4
5 114. Between April 21 and May 18, 2015, Plaintiff contacted DOS employees
6 Regina Ballard (DOS Division Chief of Passport Records), Marianne
7 Manheim, and Karen Finnegan Meyers approximately 12 times, requesting
8 an explanation for the 'missing' records as well as an investigation into the
9 parties responsible for tampering with Plaintiff's passport records. DOS
10 ignored all of Plaintiff's requests.

11
12 115. On May 19, 2015, Meyers claimed that "this office has no investigatory
13 authority" into missing passport records.

14
15 116. On May 20, 2015, Meyers admitted that DOS was unable to explain why a
16 duplicate FOIA request resulted in no records being found; why the
17 documents noted as clearly 'missing' were not produced; or why a formal
18 investigation was not opened into record tampering.

19
20 117. Plaintiff was continuously stonewalled in his attempts to get a proper
21 investigation opened, being advised variously to contact the Department of
22 Justice, the Federal Bureau of Investigation, the DOS OIG, and the
23 Executive Office of the Bureau of Consular Affairs, all in vain.

24
25 118. On information and belief, John Doe 1, who accessed Plaintiff's passport
26 records on March 1, 2011 (see paragraphs 42-44), also conspired with
27 Defendants to obstruct the finding of the 2005 Order For Change Of Name
28 from CCC (see paragraph 189d), thereby depriving Plaintiff of his rights,
liberty, and property under law.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -27

Formatted: Font: Times New Roman, 14 pt

**X. DOS FAILS TO HOLD STATUTORY POST-REVOCATION
HEARING WITHIN 60 DAYS**

119. 22 CFR §51.70(a) mandates that a post-revocation hearing must be requested “within 60 days of receipt of the notice of the denial or revocation.”

120. Plaintiff first received notification of the revocation of the passport on August 20, 2014. (See paragraphs 58-60.)

121. On behalf of Plaintiff, Attorney Stapert made a timely request for a post-revocation hearing on September 12, 2014, which DOS acknowledged receiving that same day.

122. 22 CFR §51.70(c) mandates that a post-revocation hearing must be held “within 60 days of the date the Department receives the request”.

123. On October 22, 2014, Defendant Wilcock confirmed that the post-revocation would be held in “Amsterdam on behalf of the Department,” thereby forcing Plaintiff to remain overseas until the hearing was held.

124. Pursuant to 22 CFR §51.70(c), Plaintiff’s post-revocation hearing had to be held on or before November 11, 2014.

125. In fact, DOS never held Plaintiff’s post-revocation hearing at all, instead engaging in a repeated pattern of obfuscation, delay, and extralegal ‘bullying’ behavior not contemplated by statute and resulting in substantial injury to Plaintiff.

1 126. On November 12, 2014, after the statutory 60-day period had expired,
2 Defendant Wilcock first attempted to schedule a post-revocation hearing for
3 November 19.

4
5 a) The hearing date suggested was less than the “10 business days written
6 notice of the date . . . of the hearing,” in violation of 22 CFR §51.70(d).

7
8 b) At no time prior to attempting to schedule a hearing did DOS release any
9 evidence so that Plaintiff could prepare for such a hearing, in violation of
10 22 CFR §51.71(d).

11
12 c) Furthermore, Plaintiff’s 90-day right to stay in the Netherlands expired
13 that day, placing Plaintiff in a Catch-22 situation where he could neither
14 stay legally in the Netherlands to wait for a hearing, nor leave because his
15 old passport (with entry/exit stamps and visas) had been surreptitiously
16 destroyed by DOS.

17 127. On December 9, 2014, Plaintiff duly advised Defendant Wilcock that the
18 proposed hearing was beyond the statutory period allowed, and that Plaintiff
19 would not attend any hearing scheduled after the fact until all evidence
20 necessary to prepare for such a hearing was released.

21 128. Defendant Wilcock responded that he would “seek appropriate guidance on
22 how the Department wishes to respond.”
23

24 129. On December 10, 2014:

25
26 a) Attorney Stapert advised Defendant Wilcock that “the FOIA information
27 is crucial” and no hearing could be held “until such information is
28 received.”

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -29

Formatted: Font: Times New Roman, 14 pt

1 b) Defendant Wilcock confirmed that the hearing date proposed was “after
2 the deadline”, but said “if no hearing date is agreed upon by Dec. 31 we
3 will close the file and consider the hearing waived.”
4

5 c) Plaintiff asked Defendant Wilcock why Plaintiff “should be required to
6 wait for a hearing longer than the 60 days specified by law,” and advised
7 that Wilcock either fill the FOIA request on his own recognizance, or
8 “instruct your Department to release all of my records voluntarily” before
9 the arbitrary December 31 deadline.

10 d) Defendant Wilcock did not respond to either of Plaintiff’s two options.
11

12 130. Nothing in 22 CFR §51.70 authorizes Defendant Wilcock to set the arbitrary
13 deadline of December 31, 2014.
14

15 131. On December 12, 2014, one month after the statutory deadline had expired
16 to hold a post-revocation hearing:

17 a) Defendant Wilcock released “evidence that will be presented during the
18 hearing,” but could not “say with certainty that this comprises the entire
19 file of data . . . revealed through your FOIA request.” By March 10,
20 2015, however, Defendant Wilcock had become ‘certain’ what
21 incomplete evidence would be released, raising legitimate questions as to
22 the intent of DOS compliance with Plaintiff’s FOIA request, as well as
23 his statutory right to a hearing.
24

25 b) Of the evidence released, one document was linked to the alleged first
26 basis for revocation and five documents were related to the alleged
27 second basis for revocation.
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 30

Formatted: Font: Times New Roman, 14 pt

1 c) None of the documents supported revocation pursuant to 22 CFR
2 §51.62(a)(2).

3
4 **XI. DOS HEARING EVIDENCE DOES NOT WARRANT REVOCATION**
5 **UNDER LAW**

6 132. The burden of proof in a post-revocation hearing resides solely with DOS,
7 who must prove that Plaintiff had obtained Passport No. 218029753
8 “illegally, fraudulently or erroneously” per 22 CFR §51.62(a)(2).

9 133. Of the six documents released, five apply to the second basis for revocation
10 (i.e., “that you continue to identify yourself to government authorities as
11 Michael James Kocik”).

12
13 a) None of the ‘hearing’ evidence consists of any government records, or
14 statements made by Plaintiff to any government authority.

15
16 b) DOS issued Plaintiff new Passport No. 505869857 on September 30,
17 2014, without ever once raising the second basis as a viable issue.

18 c) Furthermore, on June 9, 2015 (see paragraph 151), Defendant Wilcock
19 admitted that DOS intended to limit the scope of the hearing only to the
20 first basis for revocation and not raise the second basis at all.

21
22 d) Therefore, the second basis for revocation is moot, has no bearing in fact
23 or law, and must be resolved in Plaintiff’s favor.

24 134. Only one document applies to the first basis for revocation, which is the
25 letter dated February 15, 2011, approved by Steven Grierson and signed by
26 Nicole Silva, on behalf of CCC. (See **Exhibit M.**)

27
28 **Amended Civil Rights Complaint/Bivens Action**

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 31

Formatted: Font: Times New Roman, 14 pt

1 a) This letter is not certified as true or accurate, is not an affidavit under
2 oath, and is not addressed to any specific party, thereby raising questions
3 how DS/SSA OIG obtained a copy.

4
5 b) This letter does not list Plaintiff's full changed name correctly.

6 c) This letter does not state that the 2005 Order For Change Of Name was
7 obtained illegally, fraudulently, or in error (much less that it had been
8 'forged'), but merely states that the 'record' could not be 'found'.
9

10 d) This letter does not explain why a 'record' certified as having been
11 received by CCC at 9:36 AM on December 15, 2005, suddenly could not
12 be 'found' some five years after being lawfully filed.

13 e) This letter does not explain what 'information' DS/SSA OIG allegedly
14 presented to CCC before requesting a records search, or why a record
15 easily available online could not be 'found'.
16

17 f) This letter does not explain why Plaintiff's records were transferred twice
18 by CCC, with the latest transfer made on January 1, 2011 (to a judge in
19 the Civil/Criminal Division), some six (6) weeks before Grierson and
20 Silva issued their inaccurate letter.
21

22 135. Curiously, some 23 months elapsed between the time DOS received this
23 inaccurate letter and the date when Plaintiff's Passport No. 218029753 was
24 revoked. DOS, LELD, DS, or CA offer no explanation for the delay.

25 136. The de novo standard for review is 'preponderance of the evidence.'
26

27 137. Set beside the unverified February 15, 2011, letter that DOS offers as its sole
28 piece of revocation evidence is the original 2005 Order For Change Of

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 32

Formatted: Font: Times New Roman, 14 pt

1 Name, which Plaintiff submitted with his 2006 passport application pursuant
2 to 22 CFR §51.24 (“An applicant whose name has been changed by court
3 order . . . shall submit with his or her application a certified copy of the
4 order”).

5
6 a) This Order was certified by a CCC notary as being “a True and Correct
7 Copy of the Document on File”. DOS does not allege that the notary who
8 certified the copy did not exist, or that Plaintiff had obtained the notary’s
9 signature in any illegal, fraudulent, or erroneous way.

10
11 b) This Order was signed by CCC Judge Sandra L. Pomrenze. DOS does
12 not allege that Judge Pomrenze did not exist, or that Plaintiff obtained her
13 signature in any illegal, fraudulent, or erroneous way.

14
15 c) This Order contained the contact information for the NV attorney who
16 processed the name change on Plaintiff’s behalf. DOS does not allege
17 that Shawn Christopher did not exist, or that Plaintiff obtained
18 Christopher’s aid in any illegal, fraudulent, or erroneous way.

19
20 d) In order to prevail on the facts under 22 CFR §51.62, DOS has to prove
21 beyond a reasonable doubt that Plaintiff obtained this Order illegally,
22 fraudulently, or in error. No such facts exist, as the duplicate Order filed
23 with DOS on September 23, 2014, was an exact copy of the Order
24 already on file with DOS as of May 2006. Inasmuch as Plaintiff
25 submitted no new evidence to be issued a new passport in 2014, the 2012
26 revocation clearly is unsupported by any facts.

27
28 e) In order to prevail on the law under 22 CFR §51.62, DOS has to cite a
statute making Plaintiff legally responsible for recordkeeping in CCC.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -33

Formatted: Font: Times New Roman, 14 pt

DOS cites no such legal obligation.

f) Therefore, the first basis for revocation has no bearing in fact or law, and must be resolved in Plaintiff's favor.

138. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff is entitled to summary judgment on both revocation issues as a matter of fact and law, and Defendants should be compelled to offer restitution to Plaintiff for damages sustained by the illegal, fraudulent, and erroneous revocation of Passport No. 218029753 as well as the infringement upon Plaintiff's constitutionally protected First, Fourth, Fifth and Fourteenth Amendment rights.

XII. DOS AND CA UNLAWFULLY WAIVE PLAINTIFF'S RIGHT TO A HEARING

139. On December 10, 2014, before any hearing evidence was released to Plaintiff at all (see paragraph 129), Defendant Wilcock advised Plaintiff that "if no hearing date is agreed upon by Dec. 31 we will close the file and consider the hearing waived."

140. On December 19, 2014, Plaintiff advised Defendant Wilcock that the hearing evidence sent was "incomplete, as the evidence is insufficient to justify revocation under 22 CFR §51.62 and thus raises serious questions about the standard of care exercised before the decision was taken."

141. On December 31, 2014, Attorney Stapert reiterated to Defendant Wilcock that Plaintiff had not "waived his right" to a post-revocation hearing; that the "relevance and importance of [FOIA] information for the revocation hearing

1 should be obvious”; and that Plaintiff would not attend a hearing until “he
2 will be able to present his case based on the complete record”.

3
4 142. On January 2, 2015, Defendant Wilcock stated that he had “checked with
5 Washington, and we don’t object to a postponement of the hearing”;
6 promised to ask his “colleagues in Washington [to] see if they can get an
7 estimate of how long the FOIA request will take”; and advised that if the
8 FOIA request was still pending “within 90 days (March 31)” to contact him
9 “to confirm that you still remain interested in a hearing.”

10
11 143. At no time was Plaintiff formally or informally notified that delaying his
12 hearing until all FOIA information was received would have any impact on
13 his right to hold said hearing or be considered a waiver of that legal right; in
14 fact, he had been informed multiple times by Defendant Wilcock that the
15 opposite was true.

16
17 144. On February 6, 2015, however, DOS and Defendant Wilcock changed
18 course for the second time and claimed that he had been instructed by CA
19 “to schedule the revocation hearing without delay” as of March 20, 2015;
20 that as Plaintiff had “been issued a new United States passport, no remedy
21 remains for him as a result of the hearing”; and that if Plaintiff did not agree
22 to this, then “we will consider the hearing request withdrawn and will close
23 [Plaintiff’s] file.”

24
25 145. As no legal basis was provided for why Plaintiff should participate in a
26 hearing where evidence was withheld, witnesses blocked from being called,
27 or remedies limited, he declined to respond.
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -35

Formatted: Font: Times New Roman, 14 pt

1 146. On March 18, 2015, Attorney Stapert confirmed that he had spoken with
2 Defendant Wilcock and that the “hearing has been postponed” while
3 Plaintiff’s FOIA request was pending.

4
5 147. On May 31 and June 3, 2015, Plaintiff contacted DOS about his long
6 overdue FOIA request, and copied Defendant Wilcock on both emails.

7 148. On June 3, 2015, DOS and Defendant Wilcock changed course for the third
8 time and advised Attorney Stapert that as Wilcock was leaving the
9 Netherlands at the end of July, “We will need to wrap this up soon or the
10 Department will simply ask me to inform you that the opportunity for a
11 hearing has passed. . . . However, if the hearing is not held by July 18
12 [Plaintiff] will not get a hearing at all.” Once again, no legal basis was
13 provided for any of these arbitrary deadlines, nor was all evidence released
14 to allow Plaintiff to prepare for such a hearing.
15

16 149. On June 8, 2015, Defendant Wilcock contacted Plaintiff directly and warned
17 that if DOS did “not get a date on the schedule within the next 24 hours then
18 the case will be closed” and that he was “not prepared to discuss any other
19 issues than the date of the hearing.”
20

21 150. In reply, Plaintiff advised Defendant Wilcock that “If you are prepared on
22 your own recognizance to release within 24 hours all documents in my
23 FOIA request, . . . then state so.” Wilcock ignored this email.

24
25 151. On June 9, 2015, Defendant Wilcock made the following extralegal claims:

26 a) “The sole issue for consideration at the hearing would have been the
27 record, or lack thereof, of your name change certificate at the time the
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -36

Formatted: Font: Times New Roman, 14 pt

1 passport was revoked.”

2 b) “You previously reviewed the documentation of a lack of name change
3 certificate which would have been reviewed at the hearing.”

4
5 c) “Additionally, you were issued new U.S. passport number 505869857 on
6 September 23, 2014; the remedy that would have been available should
7 you have prevailed at a hearing.”

8
9 d) “Given our efforts to schedule a hearing, and given also that the available
10 remedy should you have prevailed has already been provided to you, the
11 office in Washington on whose behalf the Consulate General would have
12 held the hearing has at this point deemed your request for a hearing
13 waived and has closed the hearing file.”

14
15 152. In response, Plaintiff denied DOS had authority to withhold evidence; bar
16 witnesses from being called based on that evidence; restrict the scope of a
17 hearing only to issues DOS chooses to discuss (i.e., not all issues cited in the
18 revocation letter); or to limit remedies resulting from a wrongful revocation.
19 Wilcock ignored this email.

20
21 153. On June 16, 2015, DOS and Defendant Wilcock changed course for the
22 fourth time, stating: “Washington has advised me we can schedule your
23 hearing for June 26. This is the final date that can be offered.”

24 a) Once again, 22 CFR §51.70(d) mandates that a requestor will receive
25 “not less than 10 business days” written notice of the date . . . of the
26 hearing. The proposed date offered only 7 business days’ notice.

27
28 **Amended Civil Rights Complaint/Bivens Action**

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -37

Formatted: Font: Times New Roman, 14 pt

1 b) At no time did DOS release a complete record of Plaintiff's file so that all
2 evidence could be reviewed by a hearing officer to make the requisite
3 "findings of fact" per 22 CFR §51.74, and witnesses called based on that
4 unreleased evidence.

5
6 c) Again, Plaintiff and his attorney declined to be drawn into any hearing
7 not compliant with Plaintiff's rights under law.

8 154. On June 29, 2015, Defendant Wilcock continued to make extralegal claims,
9 declaring to Attorney Stapert that "this was the last opportunity for a hearing
10 and the hearing file is now closed. The FOIA request is a separate inquiry
11 that you and Mr. Willett are welcome to continue to pursue." Oddly enough,
12 Defendant Wilcock provided no legal basis to assert that "the entire file of
13 data that would be released through [Plaintiff's] FOIA request" as of
14 December 12, 2014, suddenly was no longer relevant to a fair and impartial
15 statutory hearing on whether Plaintiffs' passport had been revoked "illegally,
16 fraudulently, or erroneously."
17

18 155. Plaintiff has made every good faith effort to resolve this matter equitably,
19 and instead has been forced to suffer hardship, injury and damages since
20 August 20, 2014 – more than 47 months.
21

22 a) Plaintiff has been stranded in the Netherlands without a valid entry
23 stamp for his passport for over three years.

24 b) Plaintiff has been unable to legally acquire work or housing due to
25 destruction of his passport.
26

27
28 **Amended Civil Rights Complaint/Bivens Action**

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: -38

Formatted: Font: Times New Roman, 14 pt

1 c) Plaintiff has been unable to conduct business abroad or travel without
2 risking a temporary or permanent ban on entry into the European
3 Union due to a missing entry stamp.

4
5 d) Without an entry stamp, Plaintiff is unable to acquire residency in the
6 Netherlands or other European Union states.

7 **XII. FEDERAL QUESTIONS**

8 156. Inasmuch as Plaintiff has reached an impasse with DOS, this court is asked,
9 pursuant to 28 U.S.C. §1331, to resolve the following **Federal questions**
10 regarding the proper interpretation of 22 CFR:

11
12 a) Does 22 CFR §51.70 give DOS the right to hold a post-revocation
13 hearing after the 60-day statutory period expires, if DOS is solely
14 responsible for its failure to timely hold such a hearing within the
15 statutory deadline?

16
17 b) Does DOS failure to comply with 22 CFR §51.70 and hold a hearing
18 within 60 days violate the ‘prompt’ remedy to which Plaintiff is entitled
19 under law?

20
21 c) Does 22 CFR §51.66 and the Fifth Amendment entitle a person whose
22 passport has been revoked to the presumption of innocence (and the
23 corresponding protection of property) until such time as findings of fact
24 are made in a proper post-revocation hearing?

25
26 d) If so, does 22 CFR §51.66 and the Fifth Amendment allow DOS to
27 destroy a revoked passport when a post-revocation hearing has been
28 requested in a timely fashion, but before said hearing can be held?

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .39

Formatted: Font: Times New Roman, 14 pt

- 1 e) If 22 CFR §51.70(d) states that “Formal rules of evidence will not apply”
2 in a post-revocation hearing, then what rules of evidence do apply? Is
3 DOS entitled to be the sole arbiter of evidence presented in a hearing and
4 entitled not only to withhold evidence, but block the calling of relevant
5 witnesses based on withheld evidence?
6
7 f) Does 22 CFR §51.70 authorize DOS to limit the scope of a post-
8 revocation hearing only to those issues DOS wants to discuss, and not to
9 all reasons cited as the basis for revocation?
10
11 g) Does 22 CFR §51.70 limit the remedies Plaintiff is entitled to under law
12 if a revocation is overturned? If not, then is the intent of the statute to
13 make an injured party ‘whole’ again if the revocation is overturned, or
14 shown to be illegal, fraudulent, and in error?
15
16 h) Does 22 CFR entitle DOS to waive Plaintiff’s right to a hearing?
17
18 i) Does available DOS hearing evidence entitle Plaintiff to summary
19 judgment against Defendants, per Rule 56 of the Federal Rules of Civil
20 Procedure, on both the facts and the law, even without benefit of a post-
21 revocation hearing?

22 **DECLARATORY/INJUNCTIVE RELIEF**

- 23 157. Plaintiff incorporates by reference the foregoing allegations as if fully set
24 forth in this paragraph.
25
26 158. There exists an actual, present, and justiciable controversy between Plaintiff
27 and Defendants concerning the rights of Plaintiff and the duties of
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .40

Formatted: Font: Times New Roman, 14 pt

Defendants concerning the conduct described herein.

159. This controversy is ripe for judicial decision, and declaratory relief is necessary and appropriate so the parties may know the legal obligations that govern their present and future conduct.

160. Furthermore, this controversy requires injunctive relief to bar Defendants permanently from unlawful conduct as described herein that violates protected constitutional rights and deprives citizens of both liberty and property without due process of law.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

***Bivens* / Violation of Fourth Amendment Rights**

Protection Against Unreasonable Search and Seizure

(Declaratory/Injunctive Relief Pursuant to 28 U.S.C. §§2201, 2202)

161. Plaintiff incorporates by reference the foregoing allegations as if fully set forth in this paragraph.

162. Defendants DS/SSA OIG, Defendants Douglas Roloff, Adrienne Messer, and Matthew Deuchler and Defendants John Doe 1-10 negligently, intentionally and willfully abridged Plaintiff's constitutionally protected Fourth Amendment rights against unreasonable search and seizures by conducting an unlawful investigation of Plaintiff and obtaining confidential, protected financial and personal information relating to Plaintiff without

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: . 41

Formatted: Font: Times New Roman, 14 pt

1 probable cause or reasonable suspicion of wrongdoing.

2
3 a) Under law, a government official may be held liable for Fourth
4 Amendment violations when “conduct [violates] clearly established
5 statutory or constitutional rights of which a reasonable person would
6 have known.” (Pearson v. Callahan, 555 U.S. 223, 231, 129 S.Ct. 808,
7 172 L.Ed.2d 565 (2009) (quoting Harlow v. Fitzgerald, 457 U.S. 800,
8 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982))).

9
10 b) “A right is ‘clearly established’ if ‘the contours of the right [are]
11 sufficiently clear’ so that a reasonable officer would have understood,
12 under the circumstances at hand, that his behavior violated the right.”
13 (Bailey v. Kennedy, 349 F.3d 731, 741 (4th Cir. 2003) (quoting Wilson
14 v. Layne, 526 U.S. 603, 615, 119 S.Ct. 1692, 143 L.Ed.2d 818 (1999))).

15
16 c) That a government agent is required to have probable cause of
17 wrongdoing before intruding upon the protected rights of citizens is
18 certainly clearly established under law.

19
20 d) Defendants have, to date, failed to release any relevant documentation,
21 evidence, or information justifying such an investigation of Plaintiff or
22 articulating either probable cause or reasonable suspicion.

23 163. Under Bivens v. Six Unknown Agents of Federal Bureau of Narcotics, an
24 implied right of action for damages is created and a plaintiff is entitled to
25 recovery when constitutional rights have been deprived by government
26 agents and Congress has not provided a specific mechanism for recovery.
27 (403 U.S. 388, 395-98 (1971), *see also* Vanderklok v. United States 868
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .42

Formatted: Font: Times New Roman, 14 pt

1 F.3d 189, 198 (2017).

2
3 a) Action under Bivens is appropriate when (1) there is no alternative
4 remedy available to a Plaintiff and (2) there is a compelling reason to
5 create a new cause of action. (See Wilkie v. Robbins, 551 U.S. 537,
6 538-39 (2007)).

7
8 b) Firstly, while 28 U.S. Code § 2679 (FTCA) creates a cause of action in
9 instances where wrongful actions of government agents operating
10 within the scope of their employment bring about harm or injury to a
11 Plaintiff, it does not apply here because it is limited to *only* agents
12 acting *within the scope of his/her employment*.

13 i. Defendants' unlawful investigation falls outside of the scope of
14 employment; thus, not satisfying the requirement of the FTCA
15 – leaving Plaintiff without a statutory remedy.

16
17 ii. Issuance to Plaintiff of a new passport he had to pay for only
18 serves to remedy damages suffered *in part*.

19
20 c) Secondly, a cause of action is appropriate because, if left unchecked,
21 Defendants could repeatedly intrude upon the constitutionally protected
22 rights of citizens through fraudulent, retaliatory and unlawful
23 investigations with the sole intent to harass or intimidate.

24
25 164. Plaintiff is entitled to a declaration that Defendants DS/SSA OIG and their
26 officers, agents, servants, and employees engaged in an unreasonable search
27 and seizure by conducting an unlawful investigation of Plaintiff without
28 probable cause.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .43

Formatted: Font: Times New Roman, 14 pt

1 165. Plaintiff also is entitled to necessary and proper relief, pursuant to 28 U.S.C.
2 §2202 in the form of an injunction barring Defendants from engaging in
3 unlawful investigation of citizens without probable cause, as well as an
4 injunction expunging of all Plaintiff's personal records obtained illegally by
5 Defendants from their agency files.
6

7 166. As a direct and proximate result of Defendants' violations of Plaintiff's
8 statutory and constitutional rights, Plaintiff has suffered severe and
9 substantial damages. These damages include lost housing, lost salary, lost
10 career and business opportunities, lost property, loss of liberty, loss of
11 health, litigation expenses including attorney fees and costs, loss of
12 reputation, humiliation, embarrassment, inconvenience, mental and
13 emotional anguish, distress, and other compensatory damages, in an amount
14 to be determined by a jury and the Court.
15

16 **SECOND CAUSE OF ACTION**

17 **Violation of Fourteenth Amendment**

18 **Privileges and Immunities Rights**

19 **(Declaratory/Injunctive Relief Pursuant to 28 U.S.C. §§2201, 2202)**

20
21 167. Plaintiff incorporates by reference the foregoing allegations as if fully set
22 forth in this paragraph.
23

24 168. Pursuant to 22 CFR §51.70, and within 60 days of request, Plaintiff was
25 contractually entitled to a post-revocation hearing to determine if the DOS
26 revocation of Passport No. 218029753 should be upheld or denied.

27 169. Said hearing never was held before the 60-day statutory period expired.
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .44

Formatted: Font: Times New Roman, 14 pt

1 170. Plaintiff requested postponement of a hearing only after the 60-day period
2 had expired, and until such time as all evidence was released and examined,
3 and witnesses called based on that evidence, so that an adequate defense
4 could be prepared.

5
6 171. Defendants failed to release all evidence necessary for Plaintiff to provide an
7 adequate defense; compelled Plaintiff to file an FOIA request to obtain that
8 evidence; agreed to wait until Plaintiff's FOIA request was filled; and then
9 reneged four times on that agreement, before finally depriving Plaintiff of
10 his full and equal right to such a hearing after forcing Plaintiff to remain
11 overseas indefinitely, waiting for a hearing that never was held.

12
13 172. Plaintiff is entitled to a declaration that Defendants DOS and their officers,
14 agents, servants, and employees acted intentionally and with callous
15 disregard for Plaintiff's clearly established statutory and constitutional
16 rights, including the enjoyment of equal privileges and immunities as a
17 citizen of the United States under the law.

18
19 173. Plaintiff also is entitled to necessary and proper relief, pursuant to 28 U.S.C.
20 §2202 in the form of an injunction barring Defendants from blocking post-
21 revocation hearings intended to ascertain if the revocation in question was
22 lawful.

23 174. As a direct and proximate result of Defendants' violations of Plaintiffs'
24 constitutional rights, Plaintiff has suffered severe and substantial damages as
25 enumerated in paragraphs 166 and 182, in an amount to be determined by a
26 jury and Court.

27
28 **Amended Civil Rights Complaint/Bivens Action**

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .45

Formatted: Font: Times New Roman, 14 pt

THIRD CAUSE OF ACTION

Violation of Fifth Amendment

Due Process Clause

(Declaratory/Injunctive Relief Pursuant to 28 U.S.C. §§2201, 2202)

175. Plaintiff incorporates by reference the foregoing allegations as if fully set forth in this paragraph.

176. Defendant DOS compelled Plaintiff to pay for extra visa pages to be added to Passport No. 218029753, but unlawfully destroyed said passport without performing the service in question (in violation of 22 CFR §13.1 and §22.6(a)(2)), or refunding fees (in violation of 22 CFR §22.6(b)).

177. Furthermore, while a post-revocation hearing was pending, DOS destroyed Passport No. 218029753 before said hearing could be held, thereby depriving Plaintiff of his liberty and property without due process, while also rendering said hearing ‘moot’ under law.

a) Under law, a post-revocation hearing has the sole right to determine the propriety of the revocation, as well as the disposition of a revoked passport within the 60-day statutory period.

b) Unilateral destruction of a revoked passport allows DOS to pronounce guilt before a hearing can be held to review findings of fact and render a proper verdict. (See 22 CFR §51.74; Fifth Amendment.)

c) Under law, a fundamental requirement of due process is “the opportunity to be heard” (see Grannis v. Ordean, 234 U. S. 385, 234 U. S. 394). However, “this right to be heard has little reality or worth unless one is

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .46

Formatted: Font: Times New Roman, 14 pt

1 informed that the matter is pending and can choose for himself whether
2 to appear or default, acquiesce or contest” (see Mullane v. Central
3 Hanover Bank & Tr. Co., 339 U. S. 306, at 339 U. S. 313 (1950)).

4
5 d) At a minimum, due process requires that “deprivation of life, liberty or
6 property by adjudication be preceded by notice and opportunity for
7 hearing appropriate to the nature of the case” (see Mullane v. Central
8 Hanover Bank & Tr. Co., 339 U. S. 306, at 339 U. S. 313 (1950)).

9
10 e) A corollary to the above requirements is that any hearing required by due
11 process must be held before the effective decision is made (see
12 Armstrong v. Manzo, 380 U. S. 545 (1965)).

13
14 f) In this case, Defendants acted first, made an irreversible effective
15 decision without notice, dangled an opportunity for Plaintiff to object
16 after the fact, and then blocked any hearing at all.

17 178. Furthermore, one key principle of common law is that the accused bears a
18 presumption of innocence until the government proves guilt beyond a
19 reasonable doubt: “The principle that there is a presumption of innocence in
20 favor of the accused is the undoubted law, . . . and its resultant, the doctrine
21 of reasonable doubt, . . . indicate the necessity of enforcing the one in order
22 that the other may continue to exist.” (See Coffin v. United States, 156 U.S.
23 432 (1895)).

24
25 179. By secretly destroying Plaintiff’s old passport before a post-revocation
26 hearing could be held, DOS waived Plaintiff’s presumption of innocence and
27 ignored the doctrine of reasonable doubt, thereby devolving on itself the
28 roles of judge, jury, and executioner.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: . 47

Formatted: Font: Times New Roman, 14 pt

1 180. Plaintiff is entitled to a declaration that Defendant DOS and its officers,
2 agents, servants, and employees acted intentionally and with callous
3 disregard for Plaintiff's clearly established statutory and constitutional
4 rights.

5
6 181. Plaintiff also is entitled to necessary and proper relief, pursuant to 28 U.S.C.
7 §2202 in the form of an injunction barring Defendants from destroying
8 passports prior to a post-revocation hearings intended to ascertain if the
9 revocation in question was lawful.

10
11 182. As a direct and proximate result of Defendants' violations of Plaintiff's
12 statutory and constitutional rights, Plaintiff has suffered severe and
13 substantial damages. These damages include fees paid, lost property, loss of
14 liberty by being restrained from free travel, loss of health, litigation expenses
15 including attorney fees and costs, loss of reputation, humiliation,
16 embarrassment, inconvenience, mental and emotional anguish, distress, and
17 other compensatory damages, in an amount to be determined by a jury and
18 the Court.

19
20 **FOURTH CAUSE OF ACTION**

21 **Violation of Fifth Amendment**

22 **Equal Protection / Due Process Clause**

23 **Violation of Fourteenth Amendment**

24 **Privileges and Immunities Rights**

25 **(Declaratory/Injunctive Relief Pursuant to 28 U.S.C. §§2201, 2202)**

26
27
28 **Amended Civil Rights Complaint/Bivens Action**

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .48

Formatted: Font: Times New Roman, 14 pt

1 183. Plaintiff incorporates by reference the foregoing allegations as if fully set
2 forth in this paragraph.

3
4 184. Defendants DOS, LELD, DS, and CA revoked Plaintiff's Passport
5 No. 218029753 per 22 CFR §51.62(a)(2), aided and abetted by SSA and
6 CCC, without using the care that a reasonably prudent person is expected to
7 exercise.

8 185. Under common law, individuals with special duties to society are held to a
9 higher standard of care.

10
11 a) DOS has a special duty in regard to "the administration and the
12 enforcement of . . . immigration and nationality laws." 8 U.S.C.
13 §1104(a). Indeed, passport authority is centralized by Congress in DOS.
14 (See Haig v. Agee, 453 U.S. 280, 294-99 (1981).)

15
16 b) Individuals held to a higher standard of care are required to proceed as a
17 reasonably prudent person would act under a given set of circumstances.
18 (See In Re: Estate Of Joseph Collins Lieberman, Nos. 2-07-0451, 2-07-
19 0452 (2009), where the court held that violation of the prudent-person
20 standard "includes a range of conduct that encompasses negligent as well
21 as willful conduct.")

22
23 c) 22 CFR §51.62(a) does not mandate revocation of a passport, but
24 specifies only that Defendants may "revoke or limit a passport" when
25 certain conditions are met.

26
27 d) DOS willfully chose not to exercise any discretionary authority in
28 Plaintiff's case, but took the most extreme punitive action possible

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: . 49

Formatted: Font: Times New Roman, 14 pt

without exercising the certainty a prudent and reasonable party would apply in regard to 22 CFR §51.62(a)(2).

e) By failing to contact CCC Judge Pomrenze, the CCC notary, or even the NV Attorney responsible for the Name Change before revoking Plaintiff's passport (much less conducting any thorough investigation at all such as entering the Case No. in CCC's online records system), Defendants willfully, deliberately, and recklessly deprived Plaintiff of the due process to which he is entitled under both the Fifth and Fourteenth Amendments to the U.S. Constitution.

186. Under any passport revocation action, "The Constitution's due process guarantees call for . . . a prompt post-revocation hearing." (Haig v. Agee, 453 U.S. 282 (1981).)

a) Defendant DOS never held the post-revocation hearing within the 60-day statutory period specified per 22 CFR §51.70.

b) First, DOS induced Plaintiff to purchase a new passport while waiting for a post-revocation hearing, but then retrospectively used the 'new' passport to deprive Plaintiff of his due process right to said hearing after the fact.

c) Second, DOS compelled Plaintiff to file an FOIA request to obtain documents DOS chose to withheld, then used the delay in releasing documents to deprive Plaintiff of his rights to review evidence, call witnesses, and attend a 'prompt' post-revocation hearing, as well as to secure all possible remedies resulting from said hearing.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 50

Formatted: Font: Times New Roman, 14 pt

1 d) By promising a post-revocation hearing, and then withdrawing it for
2 extralegal reasons months after the fact, Defendants deprived Plaintiff of
3 the due process to which he is entitled under both the Fifth and
4 Fourteenth Amendments to the U.S. Constitution.
5

6 187. Under law, a passport is a travel document that is “the only means by which
7 an American can lawfully leave the country or return to it.” (See 8 U.S.C. §
8 1185(b) (1976 ed., Supp. IV).)

9 188. The right to travel “is a part of the ‘liberty’ of which the citizen cannot be
10 deprived without the due process of law under the Fifth Amendment.” (See
11 Kent v. Dulles, 357 U.S. 116, 125, 78 S.Ct. 1113, 2 L.Ed.2d 1204 (1958).)
12

13 189. Under any passport revocation action, “The Constitution’s due process
14 guarantees call for . . . a statement of reasons.” (Haig v. Agee, 453 U.S. 282
15 (1981).)
16

17 a) In Kelso v. US Dept. of State, the court also observed that “It is the
18 *reason for revocation*, not the bare act of revocation itself that may give
19 rise to a claim of constitutional wrong.” (See 13 F. Supp. 2d 1 (1998).)
20

21 b) Neither of the two revocation reasons cited by Defendants had any basis
22 in fact or law, thereby placing those spurious reasons for revocation
23 squarely in the realm of constitutional wrong.

24 190. Plaintiff is entitled to a declaration that the revocation process followed by
25 Defendants DOS, LELD, DS, and CA (aided and abetted by SSA) displayed
26 a pattern of behavior that was illegal, fraudulent, and in error.
27
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .51

Formatted: Font: Times New Roman, 14 pt

- 1 a) The above Defendants acted **illegally** because they imposed on Plaintiff a
2 legal obligation to be responsible for clerical and administrative filings in
3 a jurisdiction over which he had no control, and for which no statutory
4 obligation was cited.
5
6 b) Defendants **willfully** turned 22 CFR §51.62(a)(2) into a retroactive
7 statute in imposing those extralegal duties on Plaintiff. (See INS v. St.
8 Cyr, 533 U.S. 289, 320 (2001), where a statute has “retroactive effect
9 when it . . . creates a new obligation, imposes a new duty, or attaches a
10 new disability, in respect to transactions or considerations already past.”)
11
12 c) Defendants **conspired** to violate the Equal Protection Clause of the
13 Fourteenth Amendment in imposing these extralegal duties on Plaintiff,
14 and no one else. (See Bolling v. Sharpe, 347 U.S. 497 (1954), where the
15 due process guarantee was extended from individual state governments to
16 the Federal government.)
17
18 d) DOS actions were **fraudulent** because the document falsely claimed to
19 be ‘forged’ or ‘fraudulent’ was authentic and easily found within one (1)
20 hour of a search in CCC (as well as online), while its counterpart is now
21 ‘missing’ in DOS files. Furthermore CCC has admitted that the
22 information submitted by Defendants DOS, DS, and SSA OIG was
23 incomplete and inaccurate, thereby interfering with CCC’s ability to
24 conduct a proper search for the record in question.
25
26 e) DOS actions were **erroneous** because once Plaintiff submitted a new DS-
27 11 passport application, attaching as sole evidence the same 2005 Order
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 52

Formatted: Font: Times New Roman, 14 pt

1 For Change Of Name in DOS possession for more than eight years, a
2 new Passport No. 505869857 was issued.

3
4 f) As Plaintiff provided no new evidence to Defendants, the original
5 evidence submitted by Plaintiff on May 9, 2006, must be deemed legal,
6 proper, and without error on his part.

7 191. Plaintiff also is entitled to necessary and proper relief, pursuant to 28 U.S.C.
8 §2202 in the form of an injunction barring conduct that, If left unchecked,
9 would allow Defendants to search courthouses around the country and
10 recklessly revoke passports when birth certificates are not found, marriage
11 records go missing, divorce orders are not entered, or name changes are not
12 recorded.
13

14 a) As nothing in 22 CFR §51.62(a)(2) gives Defendants that right,
15 Defendants actions exceeded statutory authority and violated the
16 privileges and immunities rights guaranteed Plaintiff by the Fourteenth
17 amendment and thus should be permanently enjoined.
18

19 b) At the very least, Defendants should be sanctioned and held jointly and
20 severally liable for exceeding constitutional limits. (See National
21 Treasury Employees Union v. United States Dep't of Treasury, 838 F.
22 Supp. 631, 640 (D.D.C.1993), where the court held that “the public may
23 be deemed to have an overriding interest in assuring that the government
24 remains within the limit of its constitutional authority.”)
25

26 192. As a direct and proximate result of Defendants’ violations of Plaintiff’s
27 statutory and constitutional rights, Plaintiff has suffered severe and
28 substantial damages as enumerated in paragraphs 166 and 182, in an amount

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 53

Formatted: Font: Times New Roman, 14 pt

1 to be determined by a jury and the Court.

2
3 193. Furthermore, by reason of the false or fraudulent claims, in which
4 Defendants acted with oppression, fraud, and malice, Plaintiff is entitled to
5 treble damages plus a civil penalty for each violation.

6
7 **FIFTH CAUSE OF ACTION**

8 **42 U.S.C. §1983, 1985(3) / Violation of First Amendment**

9 **Freedom of Speech Rights**

10 **Common Law Fraud; Mail Fraud (18 U.S.C. §1341)**

11 **Obstruction of Justice by Destruction of Evidence (18 U.S.C. §1519)**

12 **(Declaratory/Injunctive Relief Pursuant to 28 U.S.C. §§2201, 2202)**

13
14 194. Plaintiff incorporates by reference the foregoing allegations as if fully set
15 forth in this paragraph.

16
17 195. Plaintiff's right to petition, complain (and escalate) his government and
18 elected officials for redress about unjust SSA policies and practices in its
19 treatment of Roxanne Ciopei is speech protected by the First Amendment to
20 the U.S. Constitution. (See De Jonge v. Oregon, 299 U.S. 353, 364 (1937)).

21
22 196. At all times, Plaintiff's concerns about SSA governmental abuses was
23 speech of a private citizen on a matter of public concern.

24
25 197. In order to sustain a violation of §1985(3), as construed in Griffin v.
26 Breckenridge, 403 U. S. 88, 102-103 (1971), Plaintiff must allege and prove
27 four elements: (1) a conspiracy; (2) for the purpose of depriving, either
28 directly or indirectly, any person or class of persons of the equal protection
of the laws, or of equal privileges and immunities under the laws; and (3) an
Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 54

Formatted: Font: Times New Roman, 14 pt

1 act in furtherance of the conspiracy; (4) whereby a person is either injured in
2 his person or property or deprived of any right or privilege of a citizen of the
3 United States.

4
5 a) Defendants DOS, LELD, DS, and CA negligently, intentionally and
6 willfully conspired with Defendant SSA OIG to violate Plaintiff's right to
7 free speech by first threatening Plaintiff with arrest if he continued his
8 complaint; second, conducting an extralegal investigation not
9 contemplated under law; and third, revoking Plaintiff's passport for
10 frivolous and spurious reasons.

11
12 b) The joint SSA OIG/DS investigation conducted did not have any proper
13 law enforcement basis (as Plaintiff never was accused or prosecuted for
14 any crime, and EDVA declined prosecution and refused to bring any
15 criminal charges against Plaintiff as of October 26, 2011), but designed
16 to harass and injure Plaintiff.

17
18 c) Once Defendants could not find any lawful means to punish Plaintiff,
19 they conspired to 'invent' evidence by wrongfully claiming Plaintiff had
20 obtained Passport No. 218029753 through a forged and fraudulent court
21 document (even though the document submitted was legitimate and
22 properly on file with CCC and DOS) and then 'destroying' evidence by
23 removing exculpatory documents from Plaintiff's DOS files.

24
25 d) Defendants injured Plaintiff by failing to hold the statutory post-
26 revocation hearing to which Plaintiff was entitled within 60 days of
27 request; blocking the release of evidence needed for such a hearing;
28 inducing Plaintiff to file an FOIA request to obtain all evidence, while

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 55

Formatted: Font: Times New Roman, 14 pt

1 interfering with the FOIA process; secretly destroying Plaintiff's old
2 passport before a hearing could be held; forcing Plaintiff to wait
3 indefinitely overseas for a hearing, without the legal right to stay or
4 leave, before acting to prevent any hearing from being held at all.

5
6 198. FOIA evidence released to date also clearly show DS/SSA OIG special
7 agents actively engaging in fraud and contriving to induce DOS, LELD, DS,
8 and CA to revoke Plaintiff's passport on the false grounds that it had been
9 obtained by submission of a 'forged' or 'fraudulent' document when
10 exculpatory evidence proving otherwise was already in Defendants' joint
11 possession.

12
13 199. In their ongoing harassment against Plaintiff, Defendants DOS, LELD, DS,
14 CA, and SSA OIG used the Postal Service to perpetuate their schemes in
15 violation of 18 U.S.C. §1341 (Mail Fraud): "Whoever, having devised or
16 intending to devise any scheme or artifice to defraud, or for obtaining . . .
17 property by means of false or fraudulent pretenses, representations, or
18 promises, . . . for the purpose of executing such scheme or artifice or
19 attempting so to do, places in any post office or authorized depository for
20 mail matter, any matter or thing whatever to be sent or delivered by the
21 Postal Service, . . . shall be fined under this title or imprisoned not more than
22 20 years, or both."

23
24 200. Plaintiff's FOIA request also disclosed that the Order For Change Of Name
25 Plaintiff filed with DOS in 2006 (and wrongfully alleged in 2011 as
26 'missing' in CCC) also was 'missing' from Plaintiff's DOS records, raising
27 questions of a conspiracy by Defendants to deprive Plaintiff of his rights,
28

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: .56

Formatted: Font: Times New Roman, 14 pt

liberty, and property.

201. When loss of Plaintiff's 2005 Order For Change Of Name was disclosed, Defendant DOS acted to stonewall an investigation and to block Plaintiff from uncovering the truth, in violation of U.S.C. §1519: "Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States . . . shall be fined under this title, imprisoned not more than 20 years, or both."

202. Plaintiff is entitled to a declaration that Defendants DOS, LELD, DS, CA, and SSA OIG acted intentionally and with callous disregard for Plaintiff's clearly established statutory and constitutional rights.

203. Plaintiff also is entitled to necessary and proper relief, pursuant to 28 U.S.C. §2202 in the form of an injunction barring Defendants from infringing on First Amendment rights and from obstructing justice by destruction of evidence.

204. As a direct and proximate result of Defendants' violations of Plaintiff's statutory and constitutional rights, Plaintiff has suffered severe and substantial damages as enumerated in paragraphs 166 and 182, in an amount to be determined by a jury and the Court.

205. Furthermore, by reason of the false or fraudulent claims, in which Defendants acted with oppression, fraud, and malice, Plaintiff is entitled to treble damages plus a civil penalty for each violation.

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 57

Formatted: Font: Times New Roman, 14 pt

1 **PRAYER FOR RELIEF**

2 WHEREFORE, the Plaintiff demands a judgment against these Defendants, and
3 further relief as follows:
4

- 5 a) For a trial by jury on all issues so triable per Rule 38(b) of the Federal
6 Rules of Civil Procedure;
7
8 b) For a declaratory judgment that the actions of Defendants' officers,
9 agents, servants, and employees described in this Complaint violated
10 Plaintiff's rights *inter alia* under the First, Fourth, Fifth, and Fourteenth
11 Amendments to the U.S. Constitution and that Defendants exceeded their
12 statutory authority in so acting;
13
14 c) For injunctive relief that permanently enjoins Defendants, their officers,
15 agents, servants, employees, and all persons in active concert or
16 participation with them who receive notice of this injunction *inter alia*
17 from authorizing suspicionless searches, revoking passports without
18 cause, destroying evidence, and depriving citizens of both liberty and
19 property without due process of law;
20
21 d) For summary judgment, per Rule 56 of the Federal Rules of Civil
22 Procedure, that revocation of Plaintiff's passport was improper on the
23 facts and a violation of applicable laws;
24
25 e) For damages by reason of the tortious conduct of Defendants in depriving
26 and conspiring to deprive Plaintiff of constitutional and civil rights under
27 color of law, both compensatory and punitive, in substantial amounts to
28 be determined at trial;

Amended Civil Rights Complaint/Bivens Action

Formatted: Font: Times New Roman, 14 pt, Bold

Deleted: - 58

Formatted: Font: Times New Roman, 14 pt

- 1 f) For answers to all Federal Questions posed in paragraph 156;
2
3 g) For other appropriate equitable relief, including direction to Defendants
4 to take such affirmative action as necessary to ensure that the effects of
5 the unconstitutional and unlawful passport revocation and destruction
6 practices are eliminated and do not continue to affect Plaintiff's, or
7 others', rights;
8
9 h) For an award of reasonable costs and attorney's fees, costs and
10 disbursements on his behalf expended as to such Defendants pursuant to
11 50 U.S.C. § 1810, 18 U.S.C. § 2520, 18 U.S.C. § 2707, and 28 U.S.C. §
12 2412.
13 i) For any and all other relief to which Plaintiff may show himself to be
14 justly entitled.
15
16

17 JENIFER WICKS
18 DC Bar 465476

19 PO BOX 60585
20 Washington, DC 20039
21 Telephone 202-839-5102
22 Facsimile 202-478-0867
23 Email Jenifer@JWicksLaw.com
24
25
26
27
28

Deleted: Law Offices of Jenifer Wicks
→ The Jenifer Building

Formatted: Font: (Default) Times New Roman, 14 pt

Formatted: Indent: Left: 0"

Deleted: 400 7th Street NW Suite 202

Deleted: 20004

Formatted: Font: (Default) Times New Roman, 14 pt

Deleted: 393-3004

Formatted: Font: (Default) Times New Roman, 14 pt

Deleted: - 59

Formatted: Font: Times New Roman, 14 pt, Bold

Formatted: Font: Times New Roman, 14 pt

Amended Civil Rights Complaint/Bivens Action