

Exhibit Q

Excerpt of the transcript of the December 20, 2018
Rule 30(b)(6) deposition of Paul Peek, filed in *Dvash-Banks v.*
Pompeo, Case No. 2:18-cv-00523 (C.D. Cal. filed Jan. 7, 2019)

CONFIDENTIAL - PROTECTIVE ORDER

PAUL PEEK - 12/20/2018

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CONFIDENTIAL - PROTECTIVE ORDER
UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ANDREW MASON DVASH-
BANKS and E.J.D.-B,
Plaintiffs,

v.

Case No.

2:18-cv-00523-JFW-JCx

THE UNITED STATES
DEPARTMENT OF STATE,
and THE HONORABLE
MICHAEL R. POMPEO,
Secretary of State,
Defendants.

Video Deposition of Paul Peek

Washington, D.C.

Thursday, December 20, 2018

9:15 a.m.

Job No.: NY-203388

Pages: 1 - 351

Reported by: Donna L. Linton, RMR-CLR

1 Video deposition of Paul Peek, the 30(b)(6)
2 witness herein, held at:

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South Conference Room, Suite 800
Washington, D.C. 20006
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Pursuant to Amended Notice of Rule 30(b)(6)
Deposition of Defendant United States Department of
State and Federal Rules of Civil Procedure, before
Donna L. Linton, Registered Merit Reporter,
Certified LiveNote Reporter, and Notary Public in
and for the District of Columbia.

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A P P E A R A N C E S

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A P P E A R A N C E S

(continued)

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ALSO PRESENT:

Brian Mackey, Videographer

1 Department of Justice for Defendants.

2 MS. ANDRAPALLIYAL: Vinita Andrapalliyal,
3 Department of Justice, for Defendants.

4 THE VIDEOGRAPHER: The court reporter
5 today is Donna Linton.

6 Would the reporter please swear in the
7 witness?

8 Whereupon,

9 PAUL PEEK,
10 the witness herein, was called for examination by
11 counsel on behalf of Plaintiffs, and having been
12 sworn was examined and testified as follows:

13 MR. EDELMAN: Good morning. Just for the
14 record, since we have one other individual today,
15 could we just ask you to identify yourself for the
16 record so the transcript will reflect your
17 participation?

18 MS. McLEAN: Yes. I'm Christine McLean.
19 I'm here with the Department of State.

20 MR. EDELMAN: Welcome.

21 EXAMINATION BY COUNSEL ON BEHALF OF PLAINTIFFS
22 BY MR. EDELMAN:

23 Q Good morning Mr. Peek.

24 A Good morning.

25 Q Can we just, to identify you to the

1 Q Did you review the case file for E.J. --
2 not A.J. now -- E.J. D [REDACTED] - B [REDACTED] ?

3 A I did not review the application for A.J.
4 D [REDACTED] - B [REDACTED].

5 Q I asked you about E.J.

6 A I did review the application for E.J.
7 D [REDACTED] - B [REDACTED].

8 Q And were Andrew and Elad's names listed
9 on the birth certificate for E.J. D [REDACTED] - B [REDACTED] --
10 listed as his parents?

11 A Yes.

12 Q And does the State Department have any
13 reason to doubt that Andrew or -- and Elad are E.J.
14 D [REDACTED] - B [REDACTED] ' parents?

15 A His legal parents, there is no reason to
16 doubt.

17 Q When you say his legal parents, what do
18 you mean?

19 A As opposed to biological parents.

20 Q Okay. We'll come to that in a little
21 bit, but do you have any reason to believe, based on
22 the facts of these cases, that A.J. D [REDACTED] 's parents
23 are different from E.J. D [REDACTED] - B [REDACTED] ' parents?

24 MS. ANDRAPALLIYAL: Objection. Exceeds
25 the scope.

1 A Yes.

2 Q All right. Now I want to go back a
3 little bit to talk about the process of applying for
4 a CRBA.

5 A Uh-hum. Yes.

6 Q In 2017, January of 2017, did the Toronto
7 consulate have its own protocol or process for
8 applications for a CRBA, or was there a general
9 process that applied for all posts?

10 MS. ANDRAPALLIYAL: Objection. Form.
11 Objection. Exceeds the scope.

12 A The requirements for the issuance of a
13 CRBA are uniform worldwide, but the process may be
14 different just depending on staffing, layout of a
15 consulate, those sorts of things.

16 BY MR. EDELMAN:

17 Q Let's talk for a moment about the
18 elements or criteria of the application.

19 A Uh-hum.

20 Q Was there a -- in January of 2017 was
21 there a uniform set of criteria for issuance of a
22 CRBA?

23 A Yes.

24 Q And who set those criteria?

25 A The Department of State.

1 Q In Washington, D.C.?

2 A Yes.

3 Q Okay. Would it be fair to say that at

4 that time the Toronto consulate -- the State

5 Department expected the Toronto consulate to follow

6 the criteria set by the State Department in

7 Washington?

8 A Yes.

9 Q And would it be fair to say that at that
10 time the State Department expected that the Toronto
11 consulate would not depart from the criteria for
12 issuance of a CRBA set by the State Department in
13 Washington, D.C.?

14 A That is fair to say.

15 Q Okay. Are you familiar with the term
16 "desk officer" as it applies to the State
17 Department?

18 A Yes.

19 Q What do you understand that term to mean?

20 A It's a term used throughout the
21 department for bureaus that are divided.

22 Regionally, a desk officer is generally someone who
23 is answering questions that -- or handling issues
24 related to a specific region, like the Africa desk
25 or the Somalia desk or what have you.

1 Q Okay.

2 A So U.S. citizenship.

3 Q So --

4 A Excuse me.

5 Q I'm sorry. I didn't mean to talk over
6 you. Let's just unpack a little bit to make sure
7 that we understand your answer.

8 Does the -- do the training materials for
9 that course cover the INA or do they cover the FAM's
10 discussion of the INA?

11 MS. ANDRAPALLIYAL: Objection. Form.
12 Exceeds the scope.

13 A Both. They're very closely intertwined.

14 BY MR. EDELMAN:

15 Q What does that mean?

16 A I mean, the FAM guidance is based on the
17 INA and the INA is referenced throughout the FAM
18 guidance, so --

19 Q Okay.

20 A -- it's hard to talk about one -- it's
21 hard to talk about the FAM without talking about the
22 INA when you're talking about the citizenship
23 sections.

24 Q Are there any differences between the
25 language of the INA provisions relevant to

1 adjudications of passport applications and the
2 language of the FAM provisions relevant to
3 adjudications of passport applications?

4 A The FAM goes in -- yes.

5 Q What are those differences?

6 A The FAM goes into much greater detail.

7 Q By that -- when you say it goes into
8 greater detail, do you mean that the FAM includes
9 elements that the INA does not?

10 A The FAM gives guidance to a universe of
11 scenarios that are covered in the INA. Yeah.

12 Q I'm sorry. I'm not sure I understood.
13 Are there scenarios covered in the INA?

14 A Yeah.

15 Q Maybe I don't understand what you mean by
16 scenarios. So how are you using the term
17 "scenarios" in your answer?

18 A An example would be two U.S. citizens in
19 wedlock, two U.S. citizens out of wedlock, one U.S.
20 citizen -- parents I'm referring to, biological
21 parents -- in and out of wedlock would be different
22 scenarios, for instance.

23 Q Okay. And is the wording of the FAM
24 identical to the wording of the INA with respect to
25 those situations?

1 A In places, yes.

2 Q When you say, "in places, yes," does that
3 mean in places, no?

4 A The FAM goes into greater detail, so the
5 FAM is kind of, again, how to interpret different
6 situations in much greater detail than the INA goes
7 into.

8 Q So, again, the question is, when you say,
9 "goes into greater detail," does the FAM include
10 elements that the INA does not?

11 A Yes.

12 Q Now, does the State Department require
13 consular officials adjudicating applications for a
14 U.S. passport to be familiar with provisions of U.S.
15 immigration law applicable to those adjudications?

16 A Yes.

17 Q And does the State Department do anything
18 to train consular officials on those elements of
19 U.S. immigration law?

20 MS. ANDRAPALLIYAL: Objection. Exceeds
21 the scope.

22 A Yes.

23 BY MR. EDELMAN:

24 Q What does it do?

25 A The basic consular course -- that's the

1 sections 301(g) and 309. And you had indicated that
2 the State Department has consulted not only with
3 USCIS but others. And we didn't have an opportunity
4 to ask you what others you were referring to in your
5 answer.

6 A For instance, if there was a court case
7 about something that was effected by 301(g) of the
8 INA, they might consult with the Department of
9 Justice about that.

10 Q Okay. So this isn't abstract or
11 hypothetical, were there communications -- let's
12 just ask the fact yes or no: Were there
13 communications between the State Department and the
14 Department of Justice with respect to court cases or
15 court decisions relating to the application of INA
16 section 301(g) or 309?

17 MS. ANDRAPALLIYAL: Objection. Exceeds
18 the scope of the deposition.

19 A I don't know.

20 BY MR. EDELMAN:

21 Q Okay. So my question really is were you
22 referring to specific communications that you had in
23 mind when you gave your answer before lunch?

24 A No.

25 Q So let's just ask, to be clear, does the

1 State Department require a biological relationship
2 between a married U.S. citizen parent and a child
3 born outside the United States in order to establish
4 citizenship at birth of the child?

5 A Yes.

6 Q And what is the source of that
7 requirement?

8 A I'm sorry. What is the what?

9 Q What's the source? What's the basis for
10 that requirement?

11 A The Immigration and Nationality Act.

12 Q And what in particular?

13 A Section 301(g).

14 (Defendants' Exhibit Number 1 marked for
15 identification was introduced.)

16 BY MR. EDELMAN:

17 Q Okay. So just to put some texture around
18 it, I'm just going to show you Defendants'
19 Deposition Exhibit 1. This has already been marked,
20 so I'm just going to hand you a copy and one to
21 counsel and ask you if you know what this document
22 is.

23 A It looks like an excerpt of 7 FAM 1130,
24 Acquisition of U.S. Citizenship by Birth Abroad to
25 U.S. Citizen Parent.

1 BY MR. EDELMAN:

2 Q So what laws?

3 A The laws that govern the acquisition of
4 citizenship at birth derived of a U.S. citizen
5 parent when born abroad.

6 Q Okay. And has the State Department's
7 interpretation of what those laws require by way of
8 a blood relationship been constant throughout the
9 State Department's application of those laws?

10 MS. ANDRAPALLIYAL: Objection. Exceeds
11 the scope.

12 A Can you be more specific?

13 BY MR. EDELMAN:

14 Q Has the policy about what is considered a
15 blood relationship ever been reconsidered by the
16 State Department?

17 MS. ANDRAPALLIYAL: Objection. Exceeds
18 the scope.

19 A As I mentioned, the context of a
20 gestational parent was added to the scope of blood
21 relationship, or biological relationship, by the
22 department in 2014, I believe it was.

23 BY MR. EDELMAN:

24 Q So does that mean the State Department
25 for a period of time did not consider a gestational

1 purposes of adjudicating CRBAs?

2 A Yes.

3 Q What is that definition?

4 A I will find it and read it for you.

5 Q I just want you to answer the question.

6 MS. ANDRAPALLIYAL: Can we go off the
7 record?

8 MR. EDELMAN: No. I would like an answer
9 to the question.

10 MS. ANDRAPALLIYAL: This is not a memory
11 test. He's allowed to consult --

12 MR. EDELMAN: If the witness says he
13 doesn't know, then we'll show him something to
14 refresh his recollection.

15 BY MR. EDELMAN:

16 Q Could you answer my question, please?

17 A Could you -- what was your question
18 again? I'm sorry.

19 MR. EDELMAN: Could you read it back,
20 please?

21 THE REPORTER: "Does the State Department
22 have a definition of the term "in wedlock" for
23 purposes of adjudicating CRBAs?"

24 A Yes.

25 BY MR. EDELMAN:

1 Q What is that definition?

2 A If both biological parents -- if the two
3 biological parents are married, then the case would
4 be considered to be in wedlock.

5 (Plaintiffs' Exhibit Number 4 marked for
6 identification was introduced.)

7 BY MR. EDELMAN:

8 Q Okay. Now, let's put in front of you
9 Plaintiffs' Deposition Exhibit 4. This has been
10 previously marked. A copy for counsel.

11 Let me ask you if this is the document
12 for which -- that you had in mind?

13 A Yes.

14 Q Now, turn, please, to page 4. So it's
15 page 4 of 7. There's little page numbers at the
16 bottom.

17 A Uh-hum. Yes.

18 Q Okay. 7 FAM 1140 appendix E, In wedlock
19 and out of wedlock.

20 Do you see that?

21 A In wedlock and of wedlock.

22 Q Of wedlock, I beg your pardon. Sorry.

23 Now, is -- do you see (a), "The term
24 'birth in wedlock' has been consistently interpreted
25 to mean birth during the marriage of the biological

1 parents to each other"?

2 A Yes.

3 Q Do you see that?

4 A Yes.

5 Q And (c), "To say a child was born 'in

6 wedlock' means that the child's biological parents

7 were married to each other at the time of the birth

8 of the child." Do you see that?

9 A Yes.

10 Q Is that the definition you had in mind

11 when you were asking to consult any documentation?

12 A Yes.

13 Q Okay. What's the basis for the State

14 Department's definition of "in wedlock" as embodied

15 in the material we just looked at?

16 A Their interpretation of the Immigration

17 and Nationality Act.

18 Q What in particular in the Immigration and

19 Nationality Act?

20 A Section 301(g).

21 Q Okay. Now, if a married couple used

22 assisted reproduction technology to give birth to a

23 child during their marriage, does the State

24 Department consider that child to have been born in

25 wedlock?

1 A It depends on the circumstances.

2 Q Can you elaborate, please?

3 A If both parents were -- if both parents
4 were the biological parents or gestational parent --
5 a combination of -- if they were both the biological
6 parents, which can include the gestational parent,
7 and were married to each other, then the birth would
8 be considered in wedlock.

9 Q Okay. Now, has it always been the case,
10 by the way, that the gestational parent was included
11 in that definition?

12 A Not by policy, no.

13 Q Has it been that -- always the case that
14 the gestational parent was included in that
15 definition by any other means, policy or otherwise?

16 A As I said, I'm not certain of how any
17 individual case may have been adjudicated prior to
18 the implementation of the policy.

19 Q Now -- so the policy -- am I
20 understanding you correct that if a married couple
21 used assisted reproduction technology to give birth
22 to a child during their marriage using a gestational
23 surrogate to carry the fetus, the State Department
24 now would consider that child to have been born in
25 wedlock?

1 adjudication of citizenship.

2 Q And that determination that they're a
3 biological parent is just a policy determination by
4 the State Department, correct?

5 A Correct.

6 Q Now, let's take a case where a married
7 couple use assisted reproduction technology to give
8 birth to a child during the marriage using a
9 gestational surrogate to carry the fetus. The child
10 is born outside the United States and only one of
11 the spouses is a U.S. citizen. Do you have that in
12 mind?

13 A Yes.

14 Q Okay. In that circumstance, would the
15 State Department recognize the child as a U.S.
16 citizen from birth?

17 A It depends.

18 Q Okay. And what does it depend on?

19 A Whether there was a biological
20 relationship between the child and the U.S. citizen
21 parent.

22 Q Okay. And what is the basis for the
23 State Department's position on that -- in that
24 scenario?

25 A The department's interpretation of the

1 A To require which result?

2 Q The result that we just talked about,
3 that in that circumstance that we've been talking
4 about the State Department would consider the child
5 to be a U.S. citizen at birth only if the U.S.
6 citizen parent contributed genetic material to the
7 child.

8 A If only one of the parents is
9 biologically related to the child, we would be
10 looking at INA 309 which states that a blood
11 relationship is required.

12 Q Okay. And -- maybe we'll come to that in
13 a minute, but let's just flesh out the issues.

14 Let's say you have two men married to
15 each other. Okay?

16 A Yes.

17 Q And they use sperm from one of them and
18 an egg from a donor to give birth to a child during
19 their marriage. Is that child considered to be born
20 in wedlock?

21 A If both parents did not contribute
22 genetic material, no.

23 Q Okay. In my scenario --

24 A And if neither one of them was the
25 gestational parent, I apologize.

1 Q Well -- okay. In my scenario we had one
2 of the parents -- it was the sperm from one of the
3 parents and a donor egg. Okay? In that
4 circumstance would the child be considered to have
5 been born in wedlock?

6 A The donor egg is from a third party.

7 Q Well, there's two men, so yes.

8 A The child would not be considered to be
9 born in wedlock.

10 Q And what's the basis for the State
11 Department's position?

12 A The Immigration and Nationality Act.

13 Q What in particular in the Immigration and
14 Nationality Act requires that result?

15 A Well, we would be looking at 309 for out
16 of wedlock, because 301(g) addresses a child born of
17 parents, which the department has interpreted to
18 mean both parents -- a blood relationship to both
19 parents, a biological relationship to both parents.

20 Q Okay. Now, if the child was born -- two
21 men married to each other, child is born outside the
22 United States, and the spouse whose sperm was used
23 for the assisted reproduction technology is not a
24 U.S. citizen, would the State Department recognize
25 the child as a U.S. citizen at birth?

1 A It depends.

2 Q What does it depend on?

3 A Whether the U.S. citizen parent also
4 contributed genetic material or was the gestational
5 parent.

6 Q Okay. So, again, I'm talking about two
7 men, sperm from one of them; that person not a U.S.
8 citizen. Question: Would the resulting child born
9 outside the United States be considered a U.S.
10 citizen at birth?

11 A Let me elaborate on why I'm saying "it
12 depends" in my answer.

13 Q Please.

14 A Because one of the two men could be
15 someone whose has transitioned and is now a man but
16 is not always a man. So could theoretically have
17 contributed genetic material or been the gestational
18 parent.

19 Q Okay. Let's simplify it and use a
20 situation where two men who were always men. Okay?

21 A Born male.

22 Q Pardon?

23 A Born male.

24 Q Okay. In that circumstance -- do you
25 have the rest of the scenario in mind?

1 A Sure.

2 Q Okay. In that circumstance, would the
3 State Department recognize the child as a U.S.
4 citizen at birth?

5 A No.

6 Q Okay. Would the State Department
7 consider the child to have been born in wedlock to
8 the married couple?

9 A No.

10 Q What is the basis for the State
11 Department's position?

12 A Again, the interpretation that
13 section 301(g) of the INA, when it uses the language
14 "born of parents," it is referring to a biological
15 relationship to both parents.

16 Q Okay. So -- and just to close that
17 circle, if you go back to Plaintiffs' Deposition
18 Exhibit 4, which probably is in front of you, 7 FAM
19 1140, appendix E on page 4 -- tell me if you're
20 there. I know this gets confusing --

21 A The whole thing is 7 FAM appendix E --
22 1140 appendix E. Right.

23 Q Okay. And page 4. We're in the in
24 wedlock and of wedlock.

25 A Right.

1 Q Okay. Part (a), "The term 'birth in
2 wedlock' has consistently -- has been consistently
3 interpreted to mean birth during the marriage of the
4 biological parents to each other," correct?

5 A Yes.

6 Q And is that -- I'm trying to close off
7 this circle here. Is that what you mean in your
8 last answer when you talk about the requirement that
9 the biological parents be married to each other?

10 A Yes.

11 MR. EDELMAN: Okay. Now, let's mark
12 as -- yeah. I'm going to mark -- I knew this would
13 happen. I have now lost track of what number. Are
14 we up to 15? Okay. So we're going to mark the
15 first document as 15 and the second document as 16.
16 And I'll hand copies to counsel in a moment. 15,
17 16.

18 THE WITNESS: I'm sorry. Since we're
19 between questions, can I just take a short break to
20 get some water?

21 MR. EDELMAN: Yeah, by all means. We
22 have got to go off the record first.

23 THE VIDEOGRAPHER: We're going off the
24 record. The time is 2:16 p.m.

25 (Discussion off the record.)

1 (Plaintiffs' Deposition Exhibit
2 Numbers 15 and 16 were marked for identification.)

3 THE VIDEOGRAPHER: We're back on the
4 record. The time is 2:17 p.m.

5 BY MR. EDELMAN:

6 Q Okay. So Mr. Peek, we've placed before
7 you two documents. One is Plaintiffs' Deposition
8 Exhibit 15, which is a rescript of section 301 of
9 the Immigration and Nationality Act of 1952, as
10 amended, 8 U.S.C. section 1401, and Plaintiffs'
11 Deposition Exhibit 16, which is a rescript of
12 section 309 of the INA, 8 U.S.C. 1409.

13 Let me direct your attention first to
14 section 301, so that's Plaintiffs' Deposition
15 Exhibit 15.

16 A Uh-hum. Yes.

17 Q And take as long as you want or as short
18 as you need to orientate yourself, and then I'm
19 going to ask you a question.

20 A Go ahead.

21 Q Okay. So just for the record, so we're
22 all singing from the same sheet, just point us,
23 please, to where in section 301 the words "in
24 wedlock" appear.

25 A I do not see it.

1 Q I don't understand. Surely, it must be
2 somewhere if the State Department says that this is
3 a requirement of section 301.

4 MS. ANDRAPALLIYAL: Objection.
5 Argumentative.

6 BY MR. EDELMAN:

7 Q Is it not in the statute?

8 A I don't see it in the statute.

9 Q Okay. So -- again, so we're talking
10 about the same thing, just show us where in 301 the
11 words "blood relation" appear?

12 A The words "blood relationship" do not
13 appear in 301.

14 Q So other than the FAM, what is the source
15 of the State Department policy that requires a blood
16 relationship, as we looked at for purposes of the
17 definition of "in wedlock" as set out in Plaintiffs'
18 Deposition Exhibit 4?

19 A I would have to look at the FAM to see
20 what that -- the background is.

21 Q Well, is that something you were prepared
22 to address in connection with your testimony here
23 today?

24 A I've reviewed the FAM, yes.

25 Q And so other than the FAM, are there any

1 always been male?

2 Q Yes. Unless I specify otherwise, that's
3 always the premise of the scenarios.

4 A Okay. I will go with that premise going
5 forward. Can you repeat your question?

6 Q Yes. Application for a CRBA. Two men
7 married to each other. They apply on behalf of a
8 child born outside the U.S. during their marriage.
9 The child was born using the sperm from one of them
10 and the egg from a donor. Okay. That's the
11 scenario. Do you have that in mind?

12 A Yes.

13 Q And the question is what provision of the
14 INA would apply to that application?

15 A Section 309.

16 Q Okay. And what's the basis for the State
17 Department's position?

18 A As I said before, 301 -- the language of
19 301 has been interpreted to mean born of parents --
20 has been interpreted to mean born of two biological
21 parents.

22 Q Okay. Now, other than the FAM, what, if
23 any, sources -- any sources -- require the State
24 Department to take the position that it should apply
25 section 309 and not 301(g) of the INA to an

1 A Correct.

2 Q There is no similar reference there to a
3 blood relationship, correct?

4 A The term "blood relationship" is not
5 present in 301.

6 Q Okay. So would you agree with me that
7 Congress saw fit to include the term "blood
8 relationship" in 309?

9 A Yes.

10 Q And saw fit not to include it in
11 section 301(g) --

12 A Yes.

13 Q -- or 301, correct?

14 A Correct.

15 Q Okay. Now, what is the State
16 Department's understanding of the fact that the
17 words "blood relationship" appear in section 309 but
18 not in section 301?

19 MS. ANDRAPALLIYAL: Objection. It calls
20 for a legal conclusion.

21 MR. EDELMAN: It calls for the position
22 of the State Department.

23 A I'm sorry. Can you restate the question?

24 BY MR. EDELMAN:

25 Q Yes. We've agreed, correct, that the

1 would be the appropriate...

2 Q All right. Now, if two individuals who
3 were born men and are still men are married to each
4 other, would you agree that they cannot both be
5 biological parents of the same child?

6 A Correct.

7 Q Okay. So under the State Department's
8 policy, am I correct in understanding that two men
9 who are married to each other can never have a child
10 whom the State Department would consider to be born
11 in wedlock?

12 A Assuming they have both been men their
13 entire lives, that's correct.

14 Q Okay. Even though they're legally
15 married, correct?

16 A Correct.

17 Q And even though the child is born into
18 their family during their marriage?

19 A Correct.

20 Q Okay. And that is because of the way
21 that the State Department interprets the INA,
22 correct?

23 A Correct.

24 Q Okay. Now, are there circumstances in
25 which the State Department considers children of

1 BY MR. EDELMAN:

2 Q Okay. Are you familiar with the
3 legitimation laws of any country of the world?

4 MS. ANDRAPALLIYAL: Objection. Exceeds
5 the scope.

6 A Off the top of my head?

7 BY MR. EDELMAN:

8 Q Are you familiar with the legitimation
9 laws of any country? It's a yes or no question.

10 A Am I familiar with -- go ahead and repeat
11 it.

12 Q Are you familiar with the legitimation
13 laws of any country?

14 A Yes.

15 Q What laws are you familiar with?

16 A The United States.

17 Q And what do those laws provide?

18 A It depends if the child -- I -- I guess I
19 don't know off the top of my head. I wouldn't be
20 able to --

21 Q Okay.

22 A -- spout off the law.

23 Q I'm not going to fence with you. Isn't

24 it true that notwithstanding your efforts to

25 advocate to the contrary, the State Department's

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1 position is that when two nontransgender men who are
2 married to each other have a child using assisted
3 reproduction technology and that child is born
4 outside the United States, the government of the
5 United States tells those men their child is not
6 legitimate unless some action happens down the line
7 to change the status of that child to legitimate?

8 MS. ANDRAPALLIYAL: Okay.

9 Mischaracterizes testimony.

10 BY MR. EDELMAN:

11 Q Yes or no?

12 A No.

13 Q It's not true?

14 A I do not agree with that statement.

15 Q And why do you disagree with that
16 statement?

17 A Again, I refer you to section 4(c). The
18 law of the applicant's country of birth may deem
19 them legitimate and the United States would honor
20 that.

21 Q Okay. I'll amend my question to say
22 absent the possibility that some law would recognize
23 the child as legitimate, the State Department
24 doesn't recognize the child as legitimate, yes or
25 no?

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1 Plaintiffs' Deposition Exhibit 18 indicates that the
2 State Department changed the policy with respect to
3 whether gestational mothers were considered to have
4 a blood relationship for purposes of the INA, in
5 particular, section 301 of the INA?

6 A Based on the fact that it says there's
7 been a recent policy change, I would agree with that
8 statement.

9 MR. EDELMAN: Okay. Now, let's mark as
10 Plaintiffs' Deposition Exhibit 19 the document you
11 were referring us to in the binder so we can talk
12 about that. So if you would be so kind as to give
13 that document to the reporter so the reporter can
14 apply the appropriate exhibit sticker, we can go
15 from there.

16 (Plaintiffs' Deposition Exhibit Number 19
17 was marked for identification.)

18 MR. EDELMAN: Let me just use yours for a
19 moment, please, sir, so I can identify it properly.

20 So the reporter has marked a three-page
21 document bearing production numbers DEFS001382
22 through 1384. I'm placing that document back before
23 the witness.

24 BY MR. EDELMAN:

25 Q And ask you, Mr. Peek, please can you

1 I could get your question I was answering at the
2 time I started looking for this.

3 Q The question, I believe, though I don't
4 represent to you that it was said exactly this way,
5 was how does the State Department know that USCIS
6 interprets section 301 of the INA to require a blood
7 relationship between the child and a U.S. citizen
8 parent?

9 A I'm just going to start reading the third
10 paragraph on the first page: CA and L -- which
11 refers to the Bureau of Consular Affairs and the
12 department's legal department -- in consultation
13 with DHS -- the Department of Homeland Security --
14 have been studying whether we can interpret the INA
15 to allow U.S. citizen parents to transmit U.S.
16 citizenship to their children born abroad through
17 ART in a broader range of circumstances, and in
18 other circumstances, amend visa requirements for
19 such children. Related to this, we are considering
20 how this would impact children born through ART
21 overseas to same-sex couples. Because we regularly
22 encounter people seeking to document children who
23 are not theirs, we use DNA testing to verify
24 parentage.

25 Q Okay. Now, just explain, if you will,

1 you see that?

2 A Yes.

3 Q Now, what consideration occurred with
4 respect to this issue?

5 A Consideration of the various scenarios
6 and how the broadening of the definition to include
7 gestational parents would affect same-sex couples.

8 Q But in particular what was the
9 consideration or was there a proposal to make a
10 change?

11 MS. ANDRAPALLIYAL: Objection. Exceeds
12 the scope.

13 MR. EDELMAN: The witness opened the
14 door, Counsel.

15 A Could you repeat your question?

16 BY MR. EDELMAN:

17 Q Yes. What specific consideration was the
18 State Department giving to assist you?

19 A What specific consideration was the State
20 Department --

21 Q It says, "We are considering how this
22 would impact children born through ART overseas to
23 same-sex couples."

24 So I'm asking you to describe the
25 consideration that was given.

1 how it interprets the biological relationship
2 requirement of its policy as it relates to children
3 born through assisted reproductive technology
4 overseas to same-sex couples?

5 A The department did.

6 Q Did?

7 A Well -- I'm sorry. Could you repeat your
8 question?

9 MR. EDELMAN: Why don't we read it back?

10 THE REPORTER: "So am I correct in my
11 understanding that the State Department did not
12 change its policy with respect to how it interprets
13 the biological relationship requirement of its
14 policy as it relates to children born through
15 assisted reproductive technology overseas to
16 same-sex couples?"

17 THE WITNESS: I'm sorry -- could you read
18 that one more time? I'm sorry.

19 BY MR. EDELMAN:

20 Q Here. Let me see if I can make this
21 easier. So aside from the gestational parent issue,
22 okay, did the State Department change its
23 interpretation of when a biological relationship
24 between a child and a U.S. citizen parent is
25 required for purposes of citizenship at birth?

1 MR. EDELMAN: Let's just do this for the
2 record. We've just marked as Plaintiffs' Exhibit 20
3 a multipage document bearing production numbers
4 DEFS000650 through 52, which has an MRN number of
5 14 STATE 10952 dated January 31, 2014.

6 A I'm sorry. If you don't mind, I'll note
7 that on your Exhibit 18, that same 10952 number is
8 at the top of yours, but as you can see, yours is an
9 incomplete version.

10 Q Okay. Let's just do as much as we can,
11 and this is question and answer, so that the record
12 will be clear.

13 A I apologize.

14 Q You can keep that in front of you, but my
15 question was really referring to Exhibit 15. Okay?

16 A Yes.

17 Q And to answer my question, we have to
18 look -- we can look at Exhibit 20 for a minute to
19 say we've agreed already the State Department
20 changed the policy as it relates to gestational
21 mothers, correct?

22 A Correct. And that --

23 Q Okay.

24 A -- means I misstated my earlier
25 testimony.

1 Q Okay. Now, prior to or leading up to
2 that policy change, was there an amendment to
3 section 301?

4 A No.

5 Q Okay. So the State Department just
6 changed its interpretation, correct?

7 MS. ANDRAPALLIYAL: Objection. Exceeds
8 the scope.

9 A I would say it's incorrect to say that
10 the department changed its interpretation of 301(g).

11 BY MR. EDELMAN:

12 Q Well, what would you say happened?

13 A We expanded the scope of what was
14 allowable under 301(g).

15 Q Well, something previously wasn't
16 allowable and then it was, correct?

17 A Correct.

18 Q Okay. So the State Department changed
19 its mind, right?

20 A Yes.

21 Q Okay. All right. Now, would you agree
22 with me that the FAM is an internal State Department
23 document?

24 A Much of it is internal. There are
25 sections of it that are available in the public

1 domain.

2 Q Is it subject to approval by any
3 individual or entity outside the State Department?

4 A No.

5 Q Is it subject to congressional approval?

6 A No.

7 Q Are any provisions of the State
8 Department subject to public notice and comment?

9 MS. ANDRAPALLIYAL: Objection. Exceeds
10 the scope.

11 MR. EDELMAN: I'm sorry.

12 BY MR. EDELMAN:

13 Q The provisions of the FAM -- are any
14 provisions of the FAM subject to public notice and
15 comment?

16 MS. ANDRAPALLIYAL: Objection. Exceeds
17 the scope. Calls for a legal conclusion.

18 A No. I can't think of one.

19 BY MR. EDELMAN:

20 Q Okay. Would you agree with me that the
21 FAM does not have the force of law?

22 MS. ANDRAPALLIYAL: Objection. Calls for
23 a legal conclusion. Exceeds the scope.

24 A The FAM is guidance. I do not believe it
25 has the force of the law.

1 BY MR. EDELMAN:

2 Q Okay. All right. Now, you, I believe,
3 testified earlier -- and I'm asking you is it
4 correct -- that the principal consideration that the
5 State Department brings to bear in interpreting the
6 INA is a desire to be compliant with law; is that
7 correct?

8 A Correct.

9 Q Now, would you agree that the State
10 Department's requirement that there be a biological
11 relationship between a married U.S. citizen parent
12 and a child born outside the United States for
13 purposes of recognizing U.S. citizenship at birth --
14 would you agree that that requirement is
15 inconsistent with rulings by various federal
16 appellate courts?

17 MS. ANDRAPALLIYAL: Objection. Exceeds
18 the scope.

19 A I believe that it is, yes.

20 BY MR. EDELMAN:

21 Q Okay. So help us understand how --

22 A Can I clarify?

23 Q Yes. Of course.

24 A I'm not sure if it's appellate courts. I
25 can look at my documents and see if I have an

1 formalities.

2 (Plaintiffs' Deposition Exhibit Number 21
3 was marked for identification.)

4 MR. EDELMAN: We have now marked as
5 Plaintiffs' Deposition Exhibit 21 a two-page
6 document bearing production numbers DEFS001431
7 through 32. And I'm going to put that back in front
8 of the witness.

9 BY MR. EDELMAN:

10 Q Mr. Peek, do you now have Plaintiffs'
11 Deposition Exhibit 21 in front of you?

12 A Yes.

13 Q And could you please identify what that
14 is for the record?

15 A It is a cable from the Secretary of
16 State, via others, to a post answering a question
17 about adjudication of a citizen -- a citizenship
18 adjudication question.

19 Q Okay. Now, I had asked you about three
20 federal court decisions, and you wanted to refer us
21 to Exhibit 21 in responding to those, so please go
22 ahead.

23 A Starting with paragraph 5 of this cable,
24 "U.S. citizenship is transmitted from father to
25 child only when a blood relationship is established.

1 That the INA requires a blood relationship is
2 evidenced in the provisions that require both the
3 establishment of biological paternity and a legal
4 relationship for children born out of wedlock to
5 U.S. citizen fathers, INA section 309."

6 "Mr." -- redacted on my copy -- "also
7 points to the U.S. Court of Appeals for the 9th
8 Circuit recent opinion in Solis versus Espinoza
9 versus" -- I'm sorry -- "Solis-Espinoza v. Gonzalez
10 and argues that this case should be persuasive in
11 the department's adjudication of the children's
12 claim. As a court of limited geographic
13 jurisdiction, decisions of the 9th Circuit are not
14 binding upon the department's adjudication in
15 New Jersey or Mexico."

16 Q Okay. So my question to you was would
17 you agree that the State Department's interpretation
18 is inconsistent with those decisions?

19 A It sounds like it's inconsistent with
20 this decision, yes.

21 Q Okay. What about the other two?

22 A Let me see if I have the documentation of
23 the other two. I don't know -- I don't know that I
24 have any documentation of the other two
25 specifically.

1 Q Okay. Well, let's make sure this is as
2 clear as we can make it, in fairness to you.

3 So the question I asked, in its
4 completeness, is would you agree that the State
5 Department's requirement that it -- through its
6 interpretation of section 301 of the INA, that there
7 be a biological relationship between a married U.S.
8 citizen parent and his child born outside the U.S.
9 in order to recognize that the child acquired U.S.
10 citizenship at birth, that that interpretation is
11 inconsistent with the decisions that we looked at in
12 Plaintiffs' Deposition Exhibit 10?

13 MS. ANDRAPALLIYAL: Objection. Calls for
14 a legal conclusion.

15 A I believe that is the case.

16 BY MR. EDELMAN:

17 Q Okay. Now, should I understand your
18 reference to paragraph 6 in Exhibit 21 as suggesting
19 that the State Department's view is, notwithstanding
20 the inconsistency, it just doesn't believe it has to
21 follow those decisions?

22 A Again, the department has a worldwide
23 scope and are consistent regardless of geographic
24 location in our application of the INA.

25 Q So wouldn't the answer to my question be

1 yes?

2 A Could you ask your question again?

3 MR. EDELMAN: Please read it back.

4 THE REPORTER: Should I understand your
5 reference to paragraph 6 in Exhibit 21 as suggesting
6 that the State Department's view is, notwithstanding
7 the inconsistency, that it just doesn't believe it
8 has to follow those decisions?

9 A Yes.

10 BY MR. EDELMAN:

11 Q Okay. Now, let's go back to the
12 paragraph we were looking at on page 7 of
13 Defendant's Exhibit 10 -- I'm sorry. Plaintiffs'
14 Deposition Exhibit 10.

15 A I'm sorry. What page?

16 Q Page 7.

17 A Page 7, paragraph 7.

18 Q Right. Now, let's look -- right. Let's
19 look at lines 23 and 24.

20 A Uh-hum.

21 Q So we'll take them one at a time.
22 There's a decision there, Pavan versus Smith, which
23 is a United States Supreme Court decision from 2017.
24 Do you see the reference there?

25 A Yes.

1 A Yes.

2 Q Okay. And is it fair to say with a
3 little more specificity that the only reason the
4 State Department denied E.J.'s application was
5 because he did not share a biological relationship
6 with his U.S. citizen parent --

7 A Correct.

8 Q -- Andrew?

9 A Correct. I'm sorry.

10 Q Okay. All right. Now, let's just put
11 some context around this to make sure we're on the
12 same page.

13 Does the State Department agree that
14 Andrew and Elad, the spouses, that they were validly
15 married?

16 A Yes.

17 Q Okay. And does the State Department
18 agree that Andrew and Elad were validly married at
19 the time of E.J.'s birth?

20 A Yes.

21 Q Let's make sure we have commonality on
22 some other things.

23 Does the State Department agree that
24 Andrew and Elad are identified as E.J.'s parents on
25 E.J.'s birth certificate?

1 A The legal parent, yes.

2 Q Okay. And does the State Department
3 consider Andrew to be E.J.'s parent at birth under
4 Ontario law?

5 A His legal parent at birth, yes.

6 Q Okay. And you referred earlier today to
7 a court order, correct?

8 A Yes.

9 Q Okay. So let me show you a document and
10 make sure we're talking about the same thing.

11 A Sure.

12 Q So in Exhibit 5, which you have open in
13 front of you --

14 A Okay.

15 Q -- if you go to the page -- and we're
16 looking now at the top stamped page numbers --
17 ending dash 1768 and 1769. Tell me when you have
18 that.

19 A I do. Can I just take one more question
20 before we break?

21 Q Yes. Again, we'll accommodate whatever
22 your schedule is. If you want to break right now,
23 we can do that.

24 A You can ask your question; then I would
25 like to take a break.

1 the scope.

2 A I don't know.

3 BY MR. EDELMAN:

4 Q Okay. Did you -- in your communications
5 with Ms. Day or anyone else in preparation for
6 today's deposition, did you discuss the
7 circumstances of what transpired during the
8 application and interview process for E.J.'s
9 application for a CRBA?

10 A Yes.

11 Q And did that issue come up?

12 A Which issue?

13 Q Of where E.J. was at the time of the
14 issuance of this order.

15 A I do not recall it.

16 Q Okay. So let's see if we can streamline
17 some of this, given the hour. I just want to ask
18 you a bunch of propositions and see if that is the
19 State Department's position.

20 So is it the State Department's position

21 that E.J. was born out of wedlock?

22 A Yes.

23 Q And is it the State Department's position
24 that A.J., E.J.'s twin, was born out of wedlock?

25 MS. ANDRAPALLIYAL: Objection. Exceeds

1 A -- shouldn't have done that.

2 Q So now we're talking about the State
3 Department's adjudication of the applications for
4 E.J. for a U.S. passport and a CRBA. Okay? In
5 connection with those adjudications, did the State
6 Department apply the criteria of section 309?

7 A Yes.

8 Q And just for the record, why did the
9 State Department determine that those were the right
10 criteria to apply?

11 A The State Department determined that INA
12 309 was the correct statute to apply because both of
13 the parents did not have a biological connection --

14 Q Okay.

15 A -- to the child.

16 Q Now, just so there's no confusion on this
17 point down the line, is it the State Department's
18 position that the adjudication by the consular
19 officer of E.J.'s applications was correct?

20 A Yes.

21 Q Okay. And some other things just to make
22 sure, you know, where we're on the same page and
23 where we're not.

24 Does the State Department dispute that
25 Andrew, the father, is a U.S. citizen?

1 A No.

2 Q Okay. Is -- does the State Department
3 agree that Andrew Dvash-Banks sufficiently
4 demonstrated to the Toronto consulate that he met
5 the residency requirements of section 301?

6 A I believe that he did, yes.

7 Q Okay. And if I were to ask you questions
8 about the adjudication of A.J., would you say that
9 you haven't reviewed them?

10 A Yes.

11 Q Okay. So is it the State Department's
12 position that Andrew could not have a child born in
13 wedlock under the INA if he and another man are
14 listed as the parents on the child's birth
15 certificate?

16 A If the context of your question is the
17 same as it was earlier, that two men who have
18 been --

19 Q Yes.

20 A -- male their entire lives --

21 Q Right.

22 A -- that is correct.

23 Q Correct. My bad. I should have made
24 that clear. Yes. So putting aside the possibility

25 of a transgender male -- man. So is it the State

1 Department's position, assuming there is nobody in
2 the picture who is a transgender man, that Andrew
3 Dvash-Banks could never have a child born in wedlock
4 under the INA if he and another man are listed as
5 the parents on a child's birth certificate?

6 A Correct.

7 Q Okay. So I want to focus you now on the
8 State Department's position, if you will, of what
9 transpired in the application and interview process.
10 Okay?

11 A Okay.

12 Q And, first, what are the sources of your
13 information on that subject?

14 A The application itself and the attached
15 documents, a discussion that I had with Terri Day,
16 and the transcripts of -- I'm sorry. I'm forgetting
17 her name. The woman who was at the next window, her
18 deposition. Marybeth, Mary --

19 Q Margaret?

20 A Margaret.

21 Q Ramsay.

22 A Yes. I'm sorry.

23 Q So some questions, then, about all this.
24 Did Ms. Day ask the Dvash-Banks family how -- in
25 particular, Andrew and Elad -- how they created the

1 that I have not actually seen this before.

2 Q Okay. Do you know what this document is?

3 I want to just -- I want to be respectful of your

4 time and not keep you going --

5 A Sure. Would you rather -- do you want me

6 to focus on the document or --

7 Q I would rather you --

8 A -- focus on reviewing --

9 Q -- focus on the document.

10 A Okay.

11 Q Do you know what this document is?

12 A Give me just a moment to read it. Yes.

13 Q What is this document?

14 A It's a letter from the consulate in

15 Toronto to the applicant -- to Andrew Dvash-Banks

16 advising of the procedure for undergoing DNA testing

17 should he wish to do so.

18 Q Okay. Now, it says in the third

19 paragraph that -- three lines down or two lines down

20 in the third paragraph, "The Immigration and

21 Nationality Act (INA) of 1952, as amended, requires,

22 among other things, proof of a blood relationship

23 between the child and the U.S. citizen parent,"

24 correct?

25 A That's what it says, yes.

1 Q And that is the position of the State

2 Department, correct?

3 A Correct.

4 Q But that does not purport to be a
5 quotation from the INA, right?

6 A Correct.

7 Q Okay. Now, do consular officers ask all
8 same-sex couples with children born outside the
9 United States to get DNA testing?

10 A No.

11 Q So, again, is it just up to the
12 discretion of the consular officer?

13 A Correct.

14 Q I believe -- let's do this. Do you have
15 this?

16 MR. EDELMAN: Just so we're closing out
17 the discussion of what happened with respect to the
18 Dvash-Banks' application, I'm going to put before
19 you Plaintiffs' Deposition Exhibit 1. Here is a
20 copy for counsel.

21 (Plaintiffs' Exhibit Number 1 marked for
22 identification was introduced.)

23 BY MR. EDELMAN:

24 Q Again, I don't think you need to hunt
25 through your book because it's -- we'll just see

1 if -- have you seen this before? And if you don't
2 immediately -- if it doesn't immediately trigger a
3 recollection, we can just deal with it.

4 A Yes, I have seen this before.

5 Q Okay. And when did you see it for the
6 first time?

7 A In preparation for this deposition.

8 Q Okay. Do you know what this is?

9 A Yes.

10 Q What is it?

11 A It is what we call a denial letter.

12 Q And denial of what?

13 A In this instance, it is the denial of
14 consular report of birth abroad and passport
15 application for the child.

16 Q Okay. And did the State Department, in
17 fact, conclude that -- did, in fact, deny E.J.'s
18 application for CRBA?

19 A Correct.

20 Q And did it do so on the basis that it
21 concluded E.J. was not biologically related to his
22 U.S. citizen parent?

23 A I'm sorry. Could you restate that?

24 Q Did the State Department deny the
25 application because it concluded that there was no

1 evidence that E.J. was biologically related to the
2 U.S. citizen parent?

3 A Yes.

4 Q Okay. And that was the sole reason for
5 the denial, correct?

6 A Correct.

7 Q Okay. Now, did the State Department
8 conclude that E.J. had been born out of wedlock?

9 A Yes.

10 Q Did the State Department ever believe
11 that E.J. had been born in wedlock?

12 A I believe that Ms. Day made a case note
13 to that effect at the beginning of the process, but
14 I think she later -- later -- she left the case note
15 in but later determined that was not the case.

16 Q All right. Let's just mark the case note
17 so that we're not speaking in the abstract.

18 MR. EDELMAN: This will be Plaintiffs'
19 Deposition Exhibit 26. Oh, I'm sorry. I beg your
20 pardon. It's already marked as Plaintiffs'
21 Exhibit 6, at least Jessica points out, so no reason
22 to create more confusion and mark it twice.

23 (Plaintiffs' Exhibit Number 6 marked for
24 identification was introduced.)

25 BY MR. EDELMAN:

1 between the U.S. citizen and the child?

2 Q I thought you said earlier --

3 A I'm sorry. Go ahead.

4 Q No. Go ahead.

5 A I shouldn't be speaking in absolute.

6 Where -- it may happen in every case where the
7 officer is not sure that the blood relationship
8 between -- the biological relationship between the
9 U.S. citizen and the child had been established.

10 Q Does the State Department actually track
11 how frequently applicants are asked to undergo DNA
12 testing?

13 A No.

14 Q So on what basis did the State Department
15 conclude that it's common to ask them to do so?

16 A It would be -- I guess we're parsing out
17 the definition of common because, in the universe of
18 20 million passport applications annually, it is
19 certainly uncommon. In the much smaller subset of
20 people who are trying to establish U.S. citizenship
21 based on a birth abroad due to assisted reproductive
22 technology, it is much more common.

23 Q Okay. Would you agree with me that at
24 the time that Mr. Hernandez sent Plaintiffs'
25 Deposition Exhibit 27, he actually had no idea how

1 please?

2 THE REPORTER: "But should I understand
3 you still to be saying that the State Department's
4 view that the requirements for establishing the
5 blood relationship between a U.S. citizen parent and
6 a child born outside the United States is not tied
7 really in any way to concern about fraud?"

8 A Correct.

9 BY MR. EDELMAN:

10 Q Okay. Now, look, please, at the next
11 paragraph -- the last part of that paragraph -- "He
12 may also wish to consider applying for certificate
13 of citizenship directly from USCIS."

14 Do you see that?

15 A Yes.

16 Q Do you know why Mr. Hernandez included
17 that suggestion in Plaintiffs' Deposition
18 Exhibit 27?

19 A Because the child may also have a claim
20 under another section of INA, such as 320, that does
21 not require a biological relationship.

22 Q At the time that the State Department
23 sent Plaintiffs' Exhibit 27, did the State
24 Department have an expectation that if the
25 Dvash-Banks family submitted an application for a

1 Q Does the State Department provide
2 training regarding any -- specifically with
3 reference to applications for U.S. passports or
4 CRBAs by same-sex couples?

5 You know what? Let's come back to that
6 if you don't know, because I want to just sort of
7 see if we can --

8 A Okay.

9 Q -- finish up and get you home.

10 A I just wanted to make sure I was giving
11 you an accurate answer so I was...

12 Q Okay. Now, is an application for a U.S.
13 passport or CRBA more likely to be denied if the
14 applicant's parents are a same-sex married couple
15 than if they are an opposite-sex married couple?

16 A I don't know.

17 Q Does the State Department compile any
18 statistics relating to that subject?

19 A Can you be more specific?

20 Q Does the State Department keep track of
21 the rate at which CRBA applications on behalf of --
22 or by same-sex couples are granted or denied?

23 A No.

24 Q Does it keep track of any comparison
25 statistics as to the rate at which applications for

1 a CRBA by same-sex couples versus applications for a

2 CRBA by opposite-sex couples are granted or denied?

3 A No.

4 Q Other than this litigation, has the State
5 Department received any allegations of
6 discrimination against same-sex couples in the
7 adjudication of applications for U.S. passports or
8 CRBAs?

9 A I'm sorry. Could you repeat that?

10 Q Yes. Other than this litigation -- put
11 aside this litigation -- has the State Department
12 received any allegations that the State Department
13 discriminates against same-sex couples in
14 adjudicating applications for a U.S. passport or a
15 CRBA?

16 MS. ANDRAPALLIYAL: Objection. Exceeds
17 the scope.

18 A It's a very broad question, so I'll say
19 yes.

20 BY MR. EDELMAN:

21 Q Do you know of any?

22 A I can't think of a specific instance,
23 but, I mean, in 20 million applications there's --

24 Q Okay.

25 A -- you know, we get congressionals on a

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CERTIFICATE OF NOTARY PUBLIC

I, DONNA L. LINTON, RMR-CLR, and a Notary Public in and for the District of Columbia, before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in Shorthand at the time and place mentioned in the caption hereof and thereafter transcribed by me; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



DONNA L. LINTON, RMR-CLR
Notary Public in and for
DISTRICT OF COLUMBIA
Dated: December 24th 2018

My Commission expires: June 30, 2019