

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 THE CITY OF SEATTLE, IMMIGRANT  
5 LEGAL RESOURCE CENTER, CATHOLIC  
6 LEGAL IMMIGRATION NETWORK, INC.,  
7 SELF-HELP FOR THE ELDERLY,  
8 ONEAMERICA, AND CENTRAL  
9 AMERICAN RESOURCE CENTER OF  
10 CALIFORNIA.

11 Plaintiffs,

12 vs.

13 DEPARTMENT OF HOMELAND  
14 SECURITY, KEVIN MCALEENAN,  
15 KENNETH CUCCINELLI, AND UNITED  
16 STATES CITIZENSHIP AND  
17 IMMIGRATION SERVICES,

18 Defendants.

Case No. 3:19-cv-07151

**DECLARATION OF JAMILA G.  
BENKATO IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

19 I, Jamila G. Benkato, pursuant to 28 U.S.C. § 1746 declare as follows:

20 1. I am an attorney admitted to practice before this Court and an attorney at the  
21 nonprofit organization the Protect Democracy Project, counsel of record for Plaintiffs in this  
22 action. I make this declaration of my own personal knowledge, and, if called to do so, could  
23 testify competently to the facts stated herein under oath. I submit this declaration in support of  
24 Plaintiffs' Motion for Preliminary Injunction.

25 2. Attached as Exhibit A is a true and correct copy of a memorandum designating  
26 Defendant Kenneth Cuccinelli as Principal Deputy Director of United States Citizenship and  
27 Immigration Services (USCIS) until the appointment of a new Director of USCIS. This is one  
28 page from materials sent by the Department of Homeland Security to the U.S. House of

1 Representatives Committee on the Judiciary in response to a request for information. Plaintiffs  
2 are permitted to receive and publicly file this document.

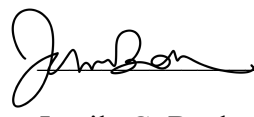
3 3. Attached as Exhibit B is a true and correct copy of a memorandum redesignating  
4 the USCIS order of succession to make the Principal Deputy Director of USCIS the First  
5 Assistant, until the appointment of a new director of USCIS. This is one page from materials sent  
6 by the Department of Homeland Security to the U.S. House of Representatives Committee on the  
7 Judiciary in response to a request for information. Plaintiffs are permitted to receive and publicly  
8 file this document.  
9

10 4. Attached as Exhibit C is a true and correct copy of letter to Hon. Nancy Pelosi  
11 from the Department of Homeland Security with its attachments, form Submissions Under the  
12 Federal Vacancies Reform Act. These are pages from materials sent by the Department of  
13 Homeland Security to the U.S. House of Representatives Committee on the Judiciary in response  
14 to a request for information. Plaintiffs are permitted to receive and publicly file this document.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on November 6, 2019.



\_\_\_\_\_

Jamila G. Benkato

# Exhibit A

Secretary

U.S. Department of Homeland Security  
Washington, DC 20528



# Homeland Security

MEMORANDUM FOR: Kenneth Cuccinelli

FROM: Kevin K. McAleenan  
Acting Secretary

SUBJECT: Appointment as Principal Deputy Director, United States  
Citizenship and Immigration Services

As Acting Secretary of Homeland Security, and in accordance with the Appointments Clause of the United States Constitution (Article II, Section 2, Clause 2), Sections 301 and 302 of title 5, United States Code, and Section 112 of title 6, United States Code, I hereby appoint you to serve as the Principal Deputy Director of United States Citizenship and Immigration Services (USCIS). This appointment will remain in effect until the earlier to occur of (1) the appointment of a Director of USCIS by the President of the United States, or (2) the express revocation of this appointment.

A handwritten signature in black ink, appearing to read "K. McAleenan", written over a horizontal line.

Kevin K. McAleenan  
Acting Secretary of Homeland Security

JUN 10 2019

Date

Produced to the House Committee on the Judiciary. Do not release without prior written approval from DHS

# Exhibit B

Secretary

U.S. Department of Homeland Security  
Washington, DC 20528



**Homeland  
Security**

June 10, 2019

**MEMORANDUM FOR:** Kenneth Cuccinelli  
Principal Deputy Director  
United States Citizenship and Immigration Services

R. D. Alles  
Senior Official Performing Duties of the Deputy Under Secretary  
for Management

Frank DiFalco  
Acting Director, Office of Operations Coordination and  
Planning

**FROM:** Kevin K. McAleenan   
Acting Secretary

**SUBJECT:** Amendment to the Order of Succession for United States  
Citizenship and Immigration Services

Pursuant to Paragraph II.K of Department of Homeland Security (DHS) Delegation No. 0106, *DHS Orders of Succession and Delegations of Authority for Named Positions* (last updated on April 10, 2019), I am exercising my reserved right to re-designate the order of succession for United States Citizenship and Immigration Services (USCIS). I hereby designate the Principal Deputy Director of USCIS as the First Assistant and most senior successor to the Director of USCIS in such order of succession. Annex D of DHS Delegation No. 0106 is hereby modified in accordance with this designation. This designation, and the corresponding modification to Annex D of DHS Delegation No. 0106, will terminate automatically, without further action, upon the appointment of a new Director of USCIS by the President. I reserve the right to amend or revoke this designation and such modification at any time.

cc: David P. Pekoske, Senior Official Performing the Functions and Duties  
of the Deputy Secretary  
John M. Mitnick, General Counsel  
Patrick Flanagan, Chief of Staff

# Exhibit C





Homeland  
Security

JUN 12 2019

The Honorable Nancy Pelosi  
Speaker of the U.S. House of Representatives  
H-232, US Capitol  
Washington, DC 20515

Re: Federal Vacancies Reform Act Submissions

Dear Ms. Speaker:

On behalf of the Department, I submit forms for a *vacancy*, *discontinuations of service in an acting role* and *designations of an acting officer* for a position that is covered by the Federal Vacancies Reform Act of 1998, Pub. L. No. 105-277 as codified in 5 U.S.C. § 3345 *et seq.*

Should you have any questions or otherwise require agency contact in this matter, please contact Mr. Leo Boucher at (202) 447-3623 or via email at [REDACTED]

Sincerely,

Neal J. Swartz  
Associate General Counsel for General Law

Attachments:

Vacancy and Designation of an acting officer, DHS – Director, U.S. Citizenship and Immigration Services

Discontinuations of service in an acting role, DHS – Director, U.S. Citizenship and Immigration Services

Designation of an acting officer, DHS – Director, U.S. Citizenship and Immigration Services

## Submission Under the Federal Vacancies Reform Act

**Addressees**

- President of the United States Senate     
  Speaker of the U.S. House of Representatives     
  Comptroller General of the United States

**This Report Provides Notification of:**

- Vacancy     
  Designation of acting officer     
  Nomination     
  Action on nomination  
 Change in previously submitted reported information     
  Discontinuation of service in acting role (date: \_\_\_\_\_)

Name of Department or Agency and Any Suborganization

U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services

Vacancy Title <b>Director, United States Citizenship and Immigration Services</b>		Date Vacancy Began <b>06/01/19</b>
Name of Acting Officer <b>Koumans, Mark</b>	Date Service Began <b>06/02/19</b>	Authority for Acting Designation if Other Than Vacancies Act
Name of Nominee for Position		Date Nomination Submitted
Action on Nomination: <input type="radio"/> Confirmed <input type="radio"/> Rejected, withdrawn, returned		Date of Action

**Agency Contact**

Name and Title

**Leo E. Boucher III, Asst. General Counsel, Administrative Law, General Law Division**

Contact's Address

**Department of Homeland Security**

Contact's Phone Number  
**(202) 447-3623**

Contact's E-Mail Address

**Submitted By**

Name and Title  
**Neal J. Spartz, Associate General Counsel for General Law**

Telephone Number  
**(202) 282-8377**

Signature  


Date  
**JUN 12 2019**

**For Congressional Use Only**

Committee of Jurisdiction

Date Received

**For GAO Use Only**

GAO Control Number

## Submission Under the Federal Vacancies Reform Act

**Addressees**

- President of the United States Senate     
  Speaker of the U.S. House of Representatives     
  Comptroller General of the United States

**This Report Provides Notification of:**

- Vacancy     
  Designation of acting officer     
  Nomination     
  Action on nomination  
 Change in previously submitted reported information     
  Discontinuation of service in acting role  
 (date: 06/09/19)

Name of Department or Agency and Any Suborganization

U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services

Vacancy Title

Director, United States Citizenship and Immigration Services

Date Vacancy Began

06/01/19

Name of Acting Officer

Koumans, Mark

Date Service Began

06/02/19

Authority for Acting Designation If Other Than Vacancies Act

Name of Nominee for Position

Date Nomination Submitted

Action on Nomination:

- Confirmed     
  Rejected, withdrawn, returned

Date of Action

**Agency Contact**

Name and Title

Leo E. Boucher III, Asst. General Counsel, Administrative Law, General Law Division

Contact's Address

Department of Homeland Security

Contact's Phone Number

(202) 447-3623

Contact's E-Mail Address

[Redacted]

**Submitted By**

Name and Title

Neal J. Spartz, Associate General Counsel for General Law

Telephone Number

(202) 282-8377

Signature

*Neal J. Spartz*

Date

JUN 12 2019

**For Congressional Use Only**

Committee of Jurisdiction

Date Received

**For GAO Use Only**

GAO Control Number

## Submission Under the Federal Vacancies Reform Act

### Addressees

- President of the United States Senate     
  Speaker of the U.S. House of Representatives     
  Comptroller General of the United States

### This Report Provides Notification of:

- Vacancy     
  Designation of acting officer     
  Nomination     
  Action on nomination  
 Change in previously submitted reported information     
  Discontinuation of service in acting role (date: \_\_\_\_\_)

Name of Department or Agency and Any Suborganization

U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services

Vacancy Title

Director, United States Citizenship and Immigration Services

Date Vacancy Began

06/01/19

Name of Acting Officer

Cuccinelli, Kenneth

Date Service Began

06/10/19

Authority of Acting Designation if Other Than Vacancies Act

Name of Nominee for Position

Date Nomination Submitted

Action on Nomination:

Confirmed

Rejected, withdrawn, returned

Date of Action

### Agency Contact

Name and Title

Leo E. Boucher III, Asst. General Counsel, Administrative Law, General Law Division

Contact's Address

Department of Homeland Security

Contact's Phone Number

(202) 447-3623

Contact's E-Mail Address

### Submitted By

Name and Title

Neal J. Startz, Associate General Counsel for General Law

Telephone Number

(202) 282-8377

Signature



Date

JUN 12 2019

### For Congressional Use Only

Committee of Jurisdiction

Date Received

### For GAO Use Only

GAO Control Number