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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

MARIA QARRILLO SOTO, an Oregon
resident and United States Citizen,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
STATE, by and through MICHAEL R.
POMPEO, Secretary of State,

Defendants.

Case No.:

**COMPLAINT
FOR DECLARATORY JUDGMENT**

Plaintiff Maria Qarrillo Soto (“Ms. Soto”), by and through her attorneys, alleges as follows:

THE PARTIES

1.

Ms. Soto is a United States Citizen by birth in the State of California. Ms. Soto is currently a resident of the State of Oregon. Ms. Soto has applied for a United States Passport based upon her United States birth but has been denied on the ground that she presented

“insufficient evidence of citizenship.” She is eligible for a United States Passport, and her application for a United States Passport should be granted pursuant to 22 U.S.C. § 2705 because she has met her burden of proof that she is a United States Citizen.

2.

Defendant Michael R. Pompeo is the duly appointed Secretary of State of the United States. He is the head of the Department of State and is responsible for setting and overseeing implementation of the policies and procedures employed by the Department of State and all its various subdivisions, including the Bureau of Consular Affairs and Passport Services. Secretary Pompeo is sued here in his official capacity.

JURISDICTION AND VENUE

3.

This action arises under the laws of the United States, 28 U.S.C. § 1331, and is brought pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, et seq. Jurisdiction is based upon the existence of questions arising thereunder, as hereinafter more fully appears.

4.

Venue is proper under 28 U.S.C. § 1391, as the District of Oregon is the district where Ms. Soto lives, and in which Ms. Soto has lived for most of her life.

FACTS

5.

Ms. Soto was born in Los Angeles, California on April 14, 1971, to migrant parents from Mexico—both of whom are now deceased. Her father was Felix Carrillo Arrellano and her mother was Guadalupe Barajas Macias. At the time of her birth, Ms. Soto’s last name was recorded on the hospital birth certificate as “Qarrillo,” apparently a misspelling of her father’s

last name, Carrillo. Ms. Soto later took the last name Soto after marrying her husband, Jose Alfredo Soto Toriz.

6.

At the time of her birth, Ms. Soto's parents lived in Los Angeles and her father worked in agriculture. Ms. Soto's maternal aunt, Maria Becerra, lived in Long Beach, California, and had direct knowledge of her sister Guadalupe's pregnancy and the birth of Ms. Soto in Los Angeles, California. Ms. Becerra herself was pregnant at the same time. Ms. Becerra visited with Ms. Soto's mother during their pregnancies and after the birth of Ms. Soto.

7.

At between one and three months of age, Ms. Soto's parents returned her to Mexico to be raised by her maternal grandparents in Leandro Valle, Baja California, Mexico. Ms. Soto's grandmother, Marguerita Macias, currently resides in Oregon. Her grandfather, Antonio Barajas, has since passed away.

8.

During her childhood, Ms. Soto visited the United States with her grandparents, approximately once per year between the ages of 8 and 17. Each time, she crossed the border by presenting her birth certificate. During the trips to the United States, Ms. Soto would visit her aunt, Ms. Becerra, who has a daughter nearly the same age as Ms. Soto. Nearly all of the crossings were at the port of entry between Tijuana, Baja California in Mexico and San Diego, California in the United States, with the exception of one or two entrances at port of entry connecting Mexicali, Baja California in Mexico with Calexico, California in the United States.

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9.

As a child, Ms. Soto was educated in Mexico. She attended school only as far as 6th grade. Because she was a U.S. citizen, and lacked Mexican citizenship, she was not granted a diploma at the culmination of her 6th grade year. The principal of her school told her that, because she lacked Mexican citizenship, she would not receive a high school diploma either, and Ms. Soto made the decision then not to continue her studies. Ms. Soto never applied for nor received citizenship in Mexico.

10.

In 1989, when she was 18 years old, Ms. Soto moved to the United States to live in Klamath Falls, Oregon.

11.

On September 18, 1989, Ms. Soto married her husband, Jose Alfredo Soto Toriz, in Klamath Falls, Oregon. In 1990, Ms. Soto petitioned for an immigrant visa for Mr. Soto as the spouse of a United States citizen. The immigrant visa application process required that she submit proof of her citizenship to the Immigration and Nationality Service. The petition was approved and Alfredo was granted residency in 1995.

12.

Ms. Soto has petitioned for immigrant visas on the basis of her U.S. citizenship for two additional family members. Both petitions required Ms. Soto to prove her citizenship to the United States government, including a copy of her birth certificate. In 1999, Ms. Soto petitioned for her mother, Maria Guadalupe Barajas. Although the petition was approved, Ms. Barajas ultimately was not granted her residency because she left the United States and missed her residency interview. In 2001, Ms. Soto also submitted an immigrant visa petition for her brother,

Daniel Carrillo-Barajas. Similarly, Mr. Carrillo-Barajas ultimately did not receive his legal permanent residency, but for reasons unrelated to Ms. Soto's eligibility as a U.S. citizen to petition for his immigrant visa.

13.

Ms. Soto made her first application for a U.S. passport on November 3, 1993. Ms. Soto submitted with her application a photocopy of a certified copy of her birth certificate issued by the State of California. The U.S. Department of State sent Ms. Soto a letter on June 3, 1994, requesting additional documentation and information about her birth, family, and upbringing. Ms. Soto did not provide additional documentation or information and her application was denied on February 17, 1995.

14.

Ms. Soto made her second application for a U.S. passport on February 2, 2018. With that application, Ms. Soto submitted the certified copy of her birth certificate issued by the State of California, a copy of her social security card, and a copy of her drivers' license. The U.S. State department informed Ms. Soto by letter that, because of the previous denial, Ms. Soto was required to fill out an additional form, DS-5520, Supplemental Questionnaire to Determine Identity for a U.S. Passport, and was asked to submit additional documentation. In response, Ms. Soto sent the completed form DS-5520, along with the original birth certificate issued by Los Angeles County Hospital, the original certified copy of her birth certificate, a copy of her marriage certificate, a letter confirming her education in Mexico, medical records related to her pregnancy, and a letter from her church. Her application was denied by letter on July 2, 2018, on the ground that the evidence Ms. Soto submitted was "insufficient to establish [her] identity."

CLAIM FOR RELIEF
(8 U.S.C. § 1503)

15.

All persons born in the United States and subject to the jurisdiction thereof are United States Citizens. Pursuant to 8 U.S.C. § 1503(a), any person who claims to be a United States Citizen and is denied a "right or privilege ... upon the grounds that he is not a national of the United States" may sue "for a judgment declaring him to be a national of the United States."

16.

Ms. Soto's California Certificate of Birth is prima facie evidence of her birth in the United States. Under the Full Faith and Credit statute, 28 U.S.C § 1739, the California birth certificate "shall have the same full faith and credit in every court and office within the United States" as it would receive in a California court.

17.

Ms. Soto was born in the United States, and therefore is entitled to a United States Passport. A declaratory judgment is both necessary and proper in order to set forth and determine Ms. Soto's rights and entitlement to proof of citizenship in the form of a United States Passport.

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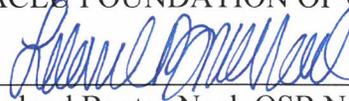
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WHEREFORE, Plaintiff Maria Qarrillo Soto requests judgment in her favor and against Defendant as follows:

- 1) Enter an order declaring that Plaintiff is a United States Citizen and is entitled to receive a passport from the United States Department of State;
- 2) An award for filing fees paid for multiple passport applications;
- 3) An award of costs and attorney's fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412; and,
- 4) Such additional relief as justice may require.

DATED: August 27, 2019.

ACLU FOUNDATION OF OREGON, INC.



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