



## Detail

Complaint Number: 740

Immigration Judge: (b)(6)

Complaint Received Date: 03/21/13

Current ACIJ  
Fong, Thomas Y. K.

Base City  
(b)(6)

Status  
CLOSED

Final Action  
Complaint dismissed due to the  
complainant's failure to state a  
claim

Final Action Date  
04/08/13

### Past ACJIS:

A-Numbers(s)	Complaint Nature(s)	Complaint Source(s)
(b)(6)	Legal	BIA

**Complaint Narrative:** IJ denied DIIS motions to appear via VTC. (In at least three unreferred case, BIA sustained DIIS interlocutory appeals on same issue), (b)(6)

### Complaint History

03/21/13	Complaint referred to ACIJ
04/08/13	Complaint dismissed due to the complainant's failure to state a claim - Diverted General Management
04/09/13	Database entry created

Sep 11, 2013

1 of 1

# Immigration Judge Complaint Intake Form

**HQ Use Only:**  
complaint #: \_\_\_\_\_  
source: first / subsequent

**Date Received at OCIJ:** \_\_\_\_\_

complaint source type	
<input type="checkbox"/> anonymous	<input checked="" type="checkbox"/> BIA
<input type="checkbox"/> respondent's attorney	<input type="checkbox"/> respondent
<input type="checkbox"/> third party (e.g., relative, uninterested attorney, courtroom observer, etc.)	<input type="checkbox"/> other: _____
<input type="checkbox"/> ___ Circuit	<input type="checkbox"/> EOIR
<input type="checkbox"/> OIL	<input type="checkbox"/> OPR
<input type="checkbox"/> DHS	<input type="checkbox"/> Main Justice
<input type="checkbox"/> OIG	<input type="checkbox"/> media
complaint receipt method	
<input type="checkbox"/> letter	<input checked="" type="checkbox"/> IJC memo (BIA)
<input type="checkbox"/> fax	<input type="checkbox"/> unknown
<input type="checkbox"/> email	<input type="checkbox"/> phone (incl. voicemail)
<input type="checkbox"/> other: _____	<input type="checkbox"/> in-person
date of complaint source	complaint source contact information
(i.e., date on letter, date of appellate body's decision) Three different BIA Referrals dated 4/3; 4/10; and 4/11/2013	name: <u>   BIA Chairman David   </u>
<b>additional complaint source details</b> (i.e., DHS component, media outlet, third party details, A-number) Eight (8) total cases to date listed numerically: 1. A 2. A 3. A 4. A 5. A 6. A 7. A 8. A	address: _____ _____ _____ email: _____ phone: _____ fax: _____

IJ name	base city	ACIJ
(b) (6)	(b) (6)	Thomas Y.K. Fong
relevant A-number(s)	date of incident	
1. A 2. A 3. A 4. A 5. A 6. A 7. A 8. A	1. 1/18/2013 Written Decisions issued 2. 2/01/2013 3. 1/16/2013 4. 2/01/2013 5. 1/16/2013 6. 1/18/2013 7. 2/04/2013 8. 1/15/2013	
Allegations		

1. A (b) (6) DHS appeal withdrawn (lead file)
2. A (b) (6) " " "
3. A (b) (6) DHS appeal moot
4. A (b) (6) DHS appeal withdrawn
5. A (b) (6) " " "
6. A (b) (6) " " "
7. A (b) (6) " " "
8. A (b) (6) " " "

Despite all the above eight cases being either moot or appeals withdrawn by DHS --- the BIA referred this matter to the CIJ as they all deal with the similar motions by the DHS to appear by VTC only from their Chief Counsel's Office in (b) (6) in lieu of appearing before the court at the (b) (6) IC location in the (b) (6). They cite budget restraints and the desire to conserve or save federal budget monies.

**nature of complaint**

- |   |   |                                      |                               |   |                                   |
|---|---|--------------------------------------|-------------------------------|---|-----------------------------------|
| <input type="checkbox"/> in-court conduct | <input type="checkbox"/> out-of-court conduct | <input type="checkbox"/> due process | <input type="checkbox"/> bias | <input checked="" type="checkbox"/> legal | <input type="checkbox"/> criminal |
| <input type="checkbox"/> incapacity       | <input type="checkbox"/> other: _____         |                                      |                               |   |                                   |

005442

**Moutinho, Deborah (EOIR)**

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**From:** Fong, Thomas (EOIR)  
**Sent:** Friday, April 26, 2013 4:30 PM  
**To:** Moutinho, Deborah (EOIR)  
**Cc:** Keller, Mary Beth (EOIR)  
**Subject:** RE: Revised: IJC Memo - (b) (6) (March 21, 2013)  
**Attachments:** Complaint In re (b) (6) (8 (b) (6) cases consolidated) ((b) (6)) .doc

Mary Beth and Deborah,

Attached is the a consolidation of the 8 (b) (6) cases referred by the BIA to the CIJ. For ID report purposes with a Lead file being (b) (6) with is the lowest numerical numbered in this set of cases. After review I found that these similar cases appealed by DHS on a denial of their motions to appear by VTC only to the (b) (6) IC were all either withdrawn or mooted before any ruling or finding was or could be made by the BIA. I recommend no action as I found the IJ was wholly within his authority to rule on these matters and these referrals failed to state a claim.

Thomas Y.K. Fong  
Assistant Chief Immigration Judge  
Immigration Court/EOIR/DOJ  
606 South Olive Street, 15th Floor  
Los Angeles, CA 90014  
(213)894-2811

(b) (6)

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**From:** Moutinho, Deborah (EOIR)  
**Sent:** Wednesday, April 03, 2013 8:55 AM  
**To:** Fong, Thomas (EOIR)  
**Cc:** Keller, Mary Beth (EOIR)  
**Subject:** FW: Revised: IJC Memo - (b) (6) (March 21, 2013)

Good Morning Sir

All of the attached cases are concerning IJ (b) (6) I am not sure if they are all on the same issue and if we can enter them all under 1 complaint or if they need to be individual complaint -- ACIJ Keller, please advise.

If you need to review the ROPs please let me know and I will send them out to you.

Thank you  
Deborah

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**From:** Henderson, Suzette M. (EOIR)  
**Sent:** Monday, March 25, 2013 5:23 PM  
**To:** O'Leary, Brian (EOIR); Keller, Mary Beth (EOIR)  
**Cc:** Minton, Amy (EOIR); Weil, Jack (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR)  
**Subject:** Revised: IJC Memo - (b) (6) (March 21, 2013)

Good afternoon,

The prior memo had the wrong year, I am resending with the correct year. Thank you.

R/Suzette Henderson