

District Judge Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MARIA SILVIA GUEVARA ENRIQUEZ,
et al.,

Plaintiffs,

v.

U.S. CITIZENSHIP & IMMIGRATION
SERVICES; UR M. JADDOU, Director of
USCIS

Defendants.

Case No. 2:23-cv-00097-TSZ

**PLAINTIFFS' NOTICE OF
SUPPLEMENTAL
FACTS RELATED TO DEFENDANTS'
MOTION TO DISMISS**

At the time of moving to dismiss the Plaintiffs' complaint, the Defendants knew or should have known that Defendant USCIS had adjudicated petitions without a genuine and consistent processing rule. Defendants did not claim to follow a rule but asserted that Plaintiffs did not allege a plausible claim for delay for the adjudication of Form I-601A waivers. Defs. Mot. to Dismiss, ECF No. 36 at 14-17. Since the parties completed briefing, Plaintiffs and proposed class members have learned that Defendant USCIS has adjudicated a number of cases filed after their cases. Adjudicating later-filed applications raises the question of whether Defendant USCIS is using a particular method of adjudication and, if so, what that method of adjudication is.

Plaintiffs' Notice of Supplemental Facts Related to Defendants' Motion to Dismiss

No. 2:23-cv-00097-TSZ

Gibbs Houston Pauw
1000 2d Ave. #1600
Seattle WA 98104
206-682-1080

1 Plaintiffs have since discovered Defendants adjudicate Form I-601A applications
2 without a consistent process and certainly do not adhere to a “first in, first out.”
3 methodology. Plaintiffs have verified multiple instances where Defendant USCIS issued a
4 decision on applications filed later than those of Plaintiffs and proposed class members,
5 including those who filed on or after July 2022. See Exhibit A (Declaration of Sam Norman,
6 dated June 16, 2023), and Exhibit B (Selected I-601A cases and Adjudication Status).
7

8 While this Court need not resolve whether Defendants follow a rule of reason to find
9 Plaintiffs have alleged a plausible case for delay, the attached information demonstrates, at a
10 minimum, that discovery is critical to assess the merits of Plaintiffs’ claim of unreasonable
11 delay under the Administrative Procedure Act. Plaintiffs respectfully request this Court deny
12 Defendants’ Motion to Dismiss.
13

14 Plaintiffs also note that Defendants have recently increased their processing time for
15 the I-601A cases they are working on and now state that they are taking 44 months to
16 adjudicate these cases. Plaintiffs ask the Court to take judicial notice of this public fact. *See*
17 Exhibit C, Page Print from <https://egov.uscis.gov/processing-times/>, last accessed on
18 6/26/2023 at 9:16 am. EDT. This is a 22 percent increase in processing times since the filing
19 of this lawsuit four months ago, and a 900% increase since 2018. *See* Exhibit D, USCIS
20 Historical Processing Times, <https://egov.uscis.gov/processing-times/historic-pt.>
21

22 Defendants have provided no public explanation for the most recent increase in processing
23 times. In fact, the increase in processing times has come after Defendant USCIS announced
24 that it had created a new processing center (HART) to adjudicate these cases to address
25

26 Plaintiffs’ Notice of Supplemental Facts Related to Defendants’ Motion to Dismiss

1 adjudication delays. *See* Declaration of Sharon Orise, ECF No. 37 at ¶ 8 (explaining that the
2 HART Service Center, was established “to prioritize and enhance the processing of
3 humanitarian and other workloads within USCIS and reduce related backlogs associated with
4 these types of forms,” including the I-601A waiver application). There is no public
5 information, since the date of announcement, of any activity by the HART Service Center,
6 nor does USCIS publish processing times for that Service Center on its website.
7

8 DATE: June 28, 2023

Respectfully submitted,

9
10 /s/ Adam W. Boyd
WSBA # 49849
GIBBS HOUSTON PAUW
1000 Second Ave. Suite 1600
Seattle, WA 98104
206-682-1080
Adam.boyd@ghp-law.net

14 JESSE M. BLESS
15 MA Bar No. 660713*
Bless Litigation
16 6 Vineyard Lane
Georgetown MA 01833
17 Tel: 781-704-3897
jesse@blesslitigation.com

18 KATHERINE E. MELLOY GOETTEL
19 IA Bar. No. 23821*
LESLIE K. DELLON
20 DC Bar No. 250316*
SUCHITA MATHUR
21 NY Bar No. 5373162*
American Immigration Council
22 1331 G St. NW
Washington, DC 20005
23 Tel: 202-507-7552 (Goettel)
24 kgoettel@immcouncil.org
ldellon@immcounil.org

26 Plaintiffs’ Notice of Supplemental Facts Related to Defendants’ Motion to Dismiss

27 No. 2:23-cv-00097-TSZ

Gibbs Houston Pauw
1000 2d Ave. #1600
Seattle WA 98104
206-682-1080

1 smathur@immcouncil.org

2 /s/ Charles H. Kuck
3 CHARLES H. KUCK
4 GA Bar No. 429940*
5 Kuck Baxter LLC
6 365 Northridge Rd., Suite 300
7 Atlanta, Georgia 30350
8 Tel: 404-949-8154
9 ckuck@immigration.net

10 AARON C. HALL
11 CO Bar No. 40376*
12 Joseph & Hall, P.C.
13 12203 E. Second Avenue
14 Aurora, CO 80011
15 Tel: 303-297-9171
16 aaron@immigrationissues.com

17 GREGORY H. SISKIND
18 TN Bar No. 014487*
19 Siskind Susser, PC
20 1028 Oakhaven Road
21 Memphis, TN 38119
22 Tel: 901-682-6455
23 gsiskind@visalaw.com

24 JENNIFER R. COBERLY
25 FLA Bar. No. 930466*
26 American Immigration Lawyers
27 Association
1331 G St. NW
Washington, DC 20005
Tel: 202-507-7692
Jcoberly@AILA.org

Attorneys for Plaintiffs

* Admitted *pro hac vice*