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7 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
8 SAN FRANCISCO DIVISION

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10 JANAN VARGHESE JACOB, et al.,
11 Plaintiffs,
12 v.
13 JOSEPH R. BIDEN, JR., et al.,
14 Defendants.

Case No. 21-cv-00261-EMC

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO ADVANCE HEARING
DATE**

Judge: Edward M. Chen

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16 **Plaintiffs' Administrative Motion to Advance Hearing Date**

17 Plaintiffs, by and through undersigned counsel, Jonathan Joshua Aftalion, hereby move this
18 Honorable Court to advance the hearing on Plaintiff's Motion for Emergency Temporary
19 Restraining Order, Plaintiffs' Motion to Certify the Class, and Plaintiffs' Motion for a Preliminary
20 Injunction, currently scheduled on March 4, 2021.

21 Due to ongoing and irreparable harms caused by family separation suffered by the Plaintiff-
22 Families in this matter as a result of Presidential Proclamation 10014, Presidential Proclamation
23 10052, and an extension to these proclamations dated December 31, 2020 (henceforth referred
24 together as "PP 10014 and its Extensions"), Plaintiffs respectfully request this Court to advance the
25

1 aforementioned hearings to February 18, 2021. This date would not change any Plaintiff or
2 opposition deadlines. A proposed order is also attached.

3 Plaintiffs, including thirteen-year-old child stuck in war-torn Yemen apart from her father
4 who is her only living parent and an individual in imminent danger while attempting to evade the
5 Iraqi Militia, comprise 2,196 individuals who are heartbreakingly separated from their loved ones
6 by Defendants' unlawful proclamations, policies, and procedures.

7 Moreover, thousands of potential class members, who are not currently named Plaintiffs,
8 will suffer immediate and irreparable harm as a result of the unlawful actions of Defendants,
9 including a couple whose diversity visas will expire on March 4, 2021, and if denied entry by
10 March 4, 2021, will permanently end their opportunity to immigrate to the United States.

11 **I. Argument**

12 The authority to set a motion hearings and briefing schedules is an inherent power of the
13 court to “to manage their own affairs so as to achieve the orderly and expeditious disposition of
14 cases,” *Link v. Wabash R. Co.*, 370 U.S. 626, 630–631 (1962); *See also Dietz v. Bouldin*, 136 S.Ct.
15 1885, 1892 (2016). *Air Line Pilots Ass'n v. Miller*, 523 U.S. 866, 880 (1998). For reasons set forth
16 in detail below and in the accompanying Declaration, Plaintiffs respectfully request the Court to
17 advance the hearings on Plaintiffs' Motion to Certify Class, Plaintiffs' Emergency Motion for
18 Temporary Restraining Order, and Plaintiffs' Motion for Preliminary Injunction.

19 **A. Plaintiffs and Potential Class Members Face Imminent Harm**

20 Plaintiffs and potential class members include individuals who are in emergency situations,
21 which require immediate processing of their or their family member's immigrant visa applications.
22 However, these individuals have been denied processing of their immigrant visa applications as a
23 result of PP 10014 and its Extensions. Following the issuance of PP 10014 and its Extensions, the
24 Department implemented policies indefinitely suspending all adjudications of Plaintiffs' family-

1 based visa applications and indefinitely separating these families through intentional policies that
2 usurp the Congressional authority to make immigration law.

3 Certain Plaintiffs and potential class members are at imminent risk of their Diversity Visas
4 expiring. Unlike other visa categories, where applicants may be able to reapply in following years,
5 if Plaintiffs and potential class members do not enter the United States on their diversity visas prior
6 to their expiration date, these individuals forever lose the ability to immigrate to the United States
7 on these already approved immigrant petitions. For example, a married couple attempted to enter
8 the United States on January 1, 2021, with their 2020 diversity visas, however were denied entry
9 due to PP 10014 and its Extensions. *See Id. at ¶3-4*. Their diversity visas expire on March 4, 2021.
10 *See Id. at ¶5*. Once their visas expire, their only opportunity to immigrant to the United States will
11 expire as well.

12 Some of the Plaintiff-Families have family members in Yemen – the world’s largest
13 humanitarian crisis. Some 80 percent of the population – in need of humanitarian assistance,
14 including more than 12 million children. Since the conflict escalated in March 2015, the country has
15 become “a living hell for the country’s children.”¹ Children continue to be killed and maimed in the
16 conflict, while the damage and closure of schools and hospitals has disrupted access to education
17 and health services, leaving children even more vulnerable and robbing them of their futures. *Id.*

18 For example, a Plaintiff has been separated from his thirteen-year-old daughter due to the
19 denial of the processing of her immigrant visa application. *See ECF 17, Ex 2, Declaration of Maher*
20 *Abdo Mohammed Ali*. Plaintiff’s daughter, whose mother and grandmother both passed away, is
21 alone in Yemen, and has no immediate family members to care for her. *See ECF 17, Ex 2 at ¶15,*
22 *Declaration of Maher Abdo Mohammed Ali*. Plaintiff’s daughter’s immigrant visa application has
23 been pending for 4 years, and has been further delayed by PP 10014 and its Extensions.

24 ¹ <https://www.unicef.org/emergencies/yemen-crisis#:~:text=Yemen%20is%20the%20largest%20humanitarian%20crisis%20in%20the%20world%2C%20with,hell%20for%20the%20country%27s%20children.>
25

1 Moreover, some Plaintiffs are in imminent danger for their lives, such as a Plaintiff who can
2 be kidnapped and killed by the Iraqi Militia at any moment. *See* ECF 17, Ex 19, at ¶9. This fear of
3 her husband being killed and unlawful conduct of Defendants denying him entry to the United
4 States has caused Plaintiff's U.S. citizen wife to seek treatment for mental disorders and depression.
5 *See* ECF 17, Ex 19, at ¶10. This harm to Plaintiff and his wife will continue until he is safe from
6 the Iraqi Militia here in the United States.

7 Furthermore, there are some Plaintiffs and thousands of potential class members who are
8 diversity visa holders for 2021. Each delayed day in another day that these individuals risk losing
9 the ability to immigrate to the United States. These individuals must abide by quarantine
10 requirements, which may result in missing the window to enter the United States on their valid visa,
11 even if they are issued in time. The stress of the delay on the processing of their immigrant visas has
12 caused substantial emotional harm to these individuals. *See* ECF 17, Ex 12, Ex 20, Ex 39.

13 **B. Plaintiffs and Potential Class Members Face Irreparable Harm**

14 Plaintiffs consist of 2,196 individuals and potential class members comprise of thousands of
15 individuals who are suffering irreparable harm by Defendants' unlawful proclamations, policies,
16 and procedures if they are continued to be denied entry into the United States pursuant to PP 10014
17 and its Extensions.

18 A couple in the proposed class will suffer irreparable harm prior to the hearing currently
19 scheduled for March 4, 2021, as they will lose their only opportunity to immigrate to the United
20 States if they do not enter the United States by March 4, 2021. Exhibit A, *Declaration of Edvard*
21 *Mattias Stefan Gezin*. A thirteen-year-old Yemeni girl is alone, facing the greatest humanitarian
22 crisis on the planet. *See* ECF 17, Ex 2, *Declaration of Maher Abdo Mohammed Ali*. A Plaintiff is at
23 risk of being captured at any moment by the Iraqi Militia, who will torture and kill him. *See* ECF
24 17, Ex 19.

1 New York, NY
Dated: January 27, 2021

2 By: /s/ Jonathan Joshua Aftalion
Jonathan Joshua Aftalion, Esq.

3
4 Curtis Lee Morrison
Kristina Ghazaryan
Abadir Barre
5 Jana Al-Akhras
The Law Office Of Rafael Ureña
6 *Attorney for the Plaintiffs*

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10 **CERTIFICATE OF SERVICE**

11 On the below date, I electronically filed **PLAINTIFFS' ADMINISTRATIVE MOTION**
12 **TO ADVANCE HEARING DATE, and all attached exhibits**, with the Clerk of the United States
13 District Court for the Northern District of California, using the CM/ECF System. The Courts
14 CM/ECF System will send an electronically email all noticed parties to the action who are
15 registered with the Court's CM/ECF System.

16 New York, NY
Dated: January 27, 2021

17
18 By: /s/ Jonathan Joshua Aftalion
Jonathan Joshua Aftalion, Esq.
19 The Law Office of Rafael Ureña
20 *Attorney for the Plaintiffs*

EXHIBIT A

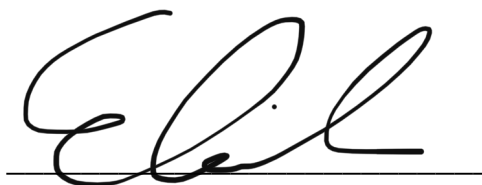
DECLARATION OF EDVARD MATTIAS STEFAN GEZIN

I, Edvard Mattias Stefan Gezin, do hereby declare:

1. I am over 18 years of age and if called upon to testify, I could and would competently testify to the following facts, as the same are personally known to me.
2. I am a DV 2020 selectee, and me and my spouse, were issued Diversity Visas on September 23, 2020 by US Embassy Stockholm.
3. On December 12, 2020, my wife and I traveled from Malmo, Sweden to Cancun, Mexico in order to be present outside of the Schengen ban area for 14 days prior to the expected expiration of PP 10014, so that we could enter the US on January 1, 2021
4. Because the White House never announced or published the extension of PP 10014 prior to our departing flight on January 1, 2021, we flew to San Francisco where we were denied entry by Customs and Border Patrol. After 12 hours, from 11 am PST to 11 pm PST, we were finally put on a flight and returned back to Cancun.
5. Our Diversity Visas expire on March 3, 2021.
6. **It is our understanding from our attorneys and the State Department, that once our visas expire, the State Department does not intend to re-issue them.**
7. My wife and I are in extreme emotional distress. This journey has been extremely difficult. We do not feel like we are being treated like human beings.
8. My wife and I are both software product designers and we have already signed contracts to begin working in San Francisco, me for Cisco and my wife for Capgemini, once we are allowed to enter the country.

1 I give this declaration in support I declare under penalty of perjury that the
2 foregoing is true and correct.

3
4 Executed on January 26, 2020

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7 A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

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10 Edvard Mattias Stefan Gezin

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 14 JOSEPH R. BIDEN, JR., et al.,
 15 Defendants.

Case No. 21-cv-00261-EMC
 Declaration by Jonathan Joshua
 Aftalion in Support of Plaintiffs’
 Administrative Motion to Advance
 Hearing Date

16
 17 **Declaration by Jonathan Joshua Aftalion**
 18 **In Support of Plaintiffs’ Administrative Motion**
To Advance Hearing Date

19 I, Jonathan Joshua Aftalion, declare as follows:

- 20 1. I am an attorney duly admitted to practice law in the State of California. I am an
 21 attorney of the Law Firm of Rafael Urena, attorneys of record for Plaintiffs in this
 22 action.
 23 2. As one of the attorneys representing the plaintiffs in this action, I am fully familiar
 24 with the facts and circumstances herein.
 25

1 3. Plaintiffs hereby move this Honorable Court to advance the hearing on Plaintiff's
2 Motion for Emergency Temporary Restraining Order, Plaintiffs' Motion to Certify
3 the Class, and Plaintiffs' Motion for a Preliminary Injunction, currently scheduled on
4 March 4, 2021, to February 18, 2021.

5 4. Plaintiffs' respectfully request this Honorable Court to advance the hearing date to
6 avoid further exacerbating the trauma endured by families who have been
7 indefinitely separated as a result of the Defendants' implemented policies
8 indefinitely suspending all adjudications of Plaintiffs' family-based visa applications.

9 5. The prolonged and indefinite duration of family separation puts undue strain on
10 familial relationships, causing discord within families. Further, these delays are
11 causing Plaintiffs to miss the most cherished periods of life with their elderly
12 parents, siblings, children, and young grandchildren. These moments are fleeting,
13 and they will never get them back.

14 6. Prolonged family separation has already led to irreparable harm to all Plaintiffs'
15 mental health. As the duration of a family's separation grows, so does the severity of
16 symptoms like depression and anxiety. Family is the most important part of life. The
17 effects of the Defendants' indefinite, unreasonable, and unlawful delay are real,
18 concrete, extreme, and heartbreaking. Ending this unlawful family separation
19 warrants advancing the hearing date.

20 7. On January 26, 2021, Plaintiffs emailed with Defense counsel, relayed their position,
21 and sought Defendant's position on Plaintiffs' motion to advance hearing date.

22 8. Plaintiffs apprised Defendants' counsel of the motion to advance the hearing date
23 due to the grave and immediate concerns caused by the family separation for all
24 Plaintiffs and potential class members – especially a young child stranded in Yemen
25 without her only living parent, an individual whose life is imminently threatened by

1 the Iraqi militia, and a couple who will lose their only opportunity to immigrate to
2 the United States if they are not permitted to enter the United States prior to the
3 currently scheduled March 4, 2021 hearing date.

4 9. Defense counsel stated Defendants do not agree to advance the hearing date set by
5 the Court.

6 10. Defendants did not articulate why the immediate and irreparable harms, to Plaintiff
7 and potential class family members, particularly to a Yemeni child alone in a war-
8 torn country, to an individual who can be murdered by Iraqi Militia at any moment,
9 and to a couple who will permanently lose their ability to immigrate to the United
10 States if they do not enter prior to the currently scheduled March 4, 2021 hearing
11 date, does not warrant an advancement of the hearing to February 18, 2021.

12 New York, NY
13 Dated: January 27, 2021

14 By: /s/ Jonathan Joshua Aftalion
15 Jonathan Joshua Aftalion, Esq.
16 The Law Office of Rafael Ureña
17 Attorney for the Plaintiffs
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JANAN JACOB, et al.,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., et al.,

Defendants.

Case No. 3:21-cv-261-EMC

[PROPOSED] ORDER

**[PROPOSED] ORDER GRANTING PLAINTIFFS’ ADMINISTRATIVE MOTION TO
ADVANCE HEARING DATE**

Upon consideration of Plaintiffs’ Administrative Motion to Advance Hearing Date, dated January 27, 2021, Declaration of Jonathan Joshua Aftalion, Esq., exhibits submitted in support, and the entire record herein, it is hereby:

ORDERED that Plaintiffs; Motion to Advance Hearing Date, is GRANTED; it is further ORDERED that

- (a) Plaintiff’s Motion for Emergency Temporary Restraining Order will be heard for oral arguments on February 18, 2021;
- (b) Plaintiffs’ Motion to Certify the Class will be heard for oral arguments on February 18, 2021;
- (c) Plaintiffs’ Motion for a Preliminary Injunction will be heard for oral arguments on February 18, 2021.

Dated:

United States District Judge Edward M. Chen