

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANAN VARGHESE JACOB, et al.,

Plaintiffs,

v.

PETER THOMAS GAYNOR, et al.,

Defendants.

Case No. [21-cv-00261-EMC](#)

**ORDER DENYING DEFENDANT'S
MOTION TO TRANSFER**

Docket No. 42

United States District Court
Northern District of California

The Government has filed a motion to transfer, pursuant to the first-to-file rule, in light of the pendency of *Anunciato* before Judge Seeborg. Docket No. 42. The first-to-file rule requires an examination of three factors: chronology of the lawsuits, similarity of the parties, and similarity of the issues. *Kohn Law Grp., Inc. v. Auto Parts Mfg. Miss., Inc.*, 787 F.3d 1237, 1240 (9th Cir. 2015). However, the first-to-file rule “is not a rigid or inflexible rule to be mechanically applied, but rather is to be applied with a view to the dictates of sound judicial administration.” *Pacesetter Sys. v. Medtronic, Inc.*, 678 F.2d 93, 95 (9th Cir. 1982). *See also Church of Scientology v. United States Dep't of Army*, 611 F.2d 738, 750 (9th Cir. 1979) (declining to apply the first-to-file rule because “[c]ircumstances and modern judicial reality ... may demand that [a court] follow a different approach from time to time”).

In *Jacob*, the vast majority of Plaintiffs in the putative class have approved immigrant visa applications for beneficiaries in the family-based preference categories. In *Anunciato*, the putative class is focused primarily on Diversity Visa selectees (mainly Diversity Visa 2021 selectees). As Diversity Visa 2021 selectees comprise only a small minority of the putative class in *Jacob*, this Court has previously indicated that it intends to defer to Judge Seeborg with respect to Diversity


1 Visa selectees. Given the difference in focus between the two cases, the courts may well address
2 different legal issues and considerations in fashioning relief. The Court thus finds that sound
3 judicial administration does not counsel in favor of transfer and exercises its discretion in denying
4 the requested transfer.

5 Accordingly, the Court **DENIES** the Government's Motion to Transfer.

6 This order disposes of Docket No. 42.

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8 **IT IS SO ORDERED.**

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10 Dated: March 17, 2021

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13 EDWARD M. CHEN
14 United States District Judge
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