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8 Attorneys for Defendants

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

13 JACOB, et al.,
14 Plaintiffs,
15 v.
16 BIDEN, et al.,
17 Defendants.

Case No. 21-cv-00261-EMC
JOINT STATUS REPORT

18
19 **Plaintiffs' Statement**

20 At the heart of this challenge is a claim that the actions of taken pursuant to the implementation of
21 Presidential Proclamation 10014 are *ultra vires* and violation of the APA. Those actions, taken by
22 former President Trump and now adopted by Secretary Blinken, sought to rewrite the INA. The former
23 President sought an “END to horrible Chain Migration & [sic] horrible Lottery System of Immigration,
24 etc” after failing to garner Congressional support to change to the Immigration and Nationality Act.
25 Dkt. No. 14 at ¶ 33-66, First Am. Compl. Those policies, particularly “mission critical/emergency”
26 designation adjudication requirements and a prioritization scheme, remain an ongoing controversy. Dkt.
27 No. 14 at ¶ 4-5, First Am. Compl.
28

1 **1. The Prioritization Scheme**

2 Pursuant to the prioritization scheme implemented by PP 10014 and “expanded” in November of
3 2020 under the direction of the Trump White House, Defendants continue to suspend the adjudication of
4 Plaintiffs’ immigrant visa applications under the Diplomacy Strong Framework. First Am. Compl. at ¶
5 5. The result is an immigration process that rewrites the INA, overrides Congressionally judgement, is
6 arbitrary, and dramatically reduces family preference and diversity visa immigration to the United
7 States.

8 **2. Reduction of Family Preference and Diversity Visa Issuances**

9 In 2019, Defendants issued 462,422 immigrant visas. Of those visas, 186,584 – or roughly 40%
10 -- were immediate relatives. In April 2021, the percentage of Immediate Relatives jumps to roughly 60%
11 of the total of adjudicated visas. To satisfy this dramatic increase in immediate relative adjudications,
12 Defendants have suspended the adjudication of Plaintiffs visa applications. When pre and post
13 implementation statistics are compared, the effect of the Trump White House policy and its unlawful
14 revision to the INA is crystalized.

15 Visa Class	16 April 2019 Visa Issuances	17 April 2021 Visa Issuances	18 Change
19 DV	20 3,859	21 534	22 86% Reduction
23 IR	24 15,370	25 14,815	26 3% Reduction
27 All Family Preference 28 Categories Combined	14,840	6,985	52% Reduction

19 **3. Continued Implementation of Diplomacy Strong Visa Processing Restrictions**

20 To the extent Defendants continue to claim below that they process immigrant visas “as consular
21 posts’ capacity allows,” visa applicants continue to be told orally by embassies, and sometimes even in
22 emails, that the visa office or KCC is responsible for the restriction of the flow of interviews. Exhibit A,
23 Consular Colombo: “Each Embassies are guided by the visa office on the categories that can be
24 processed.”

25 **4. Failure to Process Diversity Visa Applications**

26 The court should also be made aware that the egregiousness of the Kentucky Consular Center’s
27 (KCC) failure to process Plaintiffs’ documents remains ongoing and serious impediment to the
28 adjudication of Diversity Visa plaintiffs. On May 28, 2021, KCC’s document submission email was

1 once again full due to the lack of processing of diversity visa applications. Ex. B, *KCC Mailbox Full*
2 *Notification dated May 28, 2021*. The looming deadline of September 30, 2021, the 5 month cessation of
3 processing, and ongoing withholding of mandatory processing make Court immediate injunctive relief
4 necessary.

5 **5. Orderly Processing of Diversity Visa is Untenable**

6
7 Because of the five month cessation of adjudication of diversity visas, continued failures at the
8 KCC to process diversity visas and schedule diversity visas before they are current in accordance with
9 Department policy and law, and a prioritization scheme that prevents the adjudication of diversity visas,
10 the orderly processing of visas is untenable. The suggestion that a queue exists is belied by the fact that
11 Diversity Visa selectees with case numbers as high as 2021AF80068 have been transferred from KCC to
12 consulates for interview. *See Ex, C, Visa Case # 2021AF80068 – “Ready” for interview.*

13 **Defendants’ Statement**

14 On June 3, 2021, Defendants filed supplemental briefing order to explain the United States
15 Department of State’s tiered approach to prioritizing the adjudication of different classes of immigrant
16 visas (ECF No. 88), as Ordered by the Court on May 20, 2021. (ECF No. 85). Defendants’ position
17 remains unchanged. The revocation of Proclamation 10014 on February 24, 2021 rendered the Plaintiffs’
18 claims moot, and as a result, Defendants maintain that the case should be dismissed. Furthermore,
19 Defendants have amply demonstrated that, despite Plaintiffs’ claims to the contrary, immigrant visas are
20 being processed across all categories—immediate relative, family preference, and DV-2021. Such
21 processing is taking place without regard to the now revoked Proclamation, and Defendants continue to
22 process immigrant visas in increasing numbers as consular posts’ capacity allows, balancing the need to
23 protect the health and safety of its staff while complying with host country government-imposed
24 restrictions. Defendants will respond to the issues raised, for the first time today, in Plaintiffs’ portion of
25 the joint status report at the next hearing if the Court determines that they are relevant to the Amended
26 Complaint.
27
28

1 DATED: June 4, 2021

Respectfully submitted,

2 STEPHANIE M. HINDS
3 Acting United States Attorney

4 /s/ Valerie E. Smith
5 VALERIE E. SMITH
Assistant United States Attorney

6 DATED: June 4, 2021

/s/ Curtis Lee Morrison
7 CURTIS LEE MORRISON

8 ABADIR BARRE
9 JONATHAN AFTALION
10 JANA AL-AKHRAS
11 KRISTINA GHAZARYAN
The Law Office Of Rafael Ureña
Attorneys for Plaintiffs

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EXHIBIT A

----- Forwarded message -----

From: **Consular, Colombo** <ConsularColombo@state.gov>

Date: Thu, 3 Jun 2021 at 14:36

Subject: Re: 2021 Green card interviews

To: [REDACTED]@gmail.com <[REDACTED]@gmail.com>

Cc: Consular, Colombo <ConsularColombo@state.gov>

Thank you for your inquiry,

Our office is currently unable to process Diversity visas. Please follow the Embassy websites for updates.

The Embassy will publicize any announcement on the resumption of visa interviews once information is available.

The COVID-19 pandemic continues to severely affect the ability of embassies and consulates around the world to be able to resume routine visa services. Each Embassies are guided by the visa office on the categories that can be processed. Currently we can process only a limited number of visa categories. Our office is not ready to Diversity Visas yet. We also do not have additional information on when we will be able to Diversity Visas.

The State Department is working hard while ensuring the safety of our staff and applicants and protecting the national security. Thank you for your patience and understanding as we work to ensure the safety of all those we service throughout this difficult time.

Thank you

Best Regards,

Consular Colombo

[U.S. Embassy Colombo, Sri Lanka](#)

[210 Galle Road Colombo 3](#)

Lk.usembassy.gov

From: "Consular, Colombo" <ConsularColombo@state.gov>
Date: June 2, 2021 at 9:22:10 AM GMT+5:30
To: [REDACTED] <[REDACTED]@gmail.com>, "Consular, Colombo"
<ConsularColombo@state.gov>
Subject: RE: Dv 2021 interviews

Thank you for your inquiry,

Our office is currently unable to process Diversity visas. Please follow the Embassy websites for updates.

The Embassy will publicize any announcement on the resumption of visa interviews once information is available.

The COVID-19 pandemic continues to severely affect the ability of embassies and consulates around the world to be able to resume routine visa services. Each Embassies are guided by the visa office on the categories that can be processed. Currently we can process only a limited number of visa categories. Our office is not ready to Diversity Visas yet. We also do not have additional information on when we will be able to Diversity Visas.

The State Department is working hard while ensuring the safety of our staff and applicants and protecting the national security. Thank you for your patience and understanding as we work to ensure the safety of all those we service throughout this difficult time.

Thank you

Best Regards,
Consular Colombo
U.S. Embassy Colombo, Sri Lanka
210 Galle Road Colombo 3
Lk.usembassy.gov

SENSITIVE BUT UNCLASSIFIED

----- Forwarded message -----

From: **Consular, Colombo** <ConsularColombo@state.gov>

Date: Thu, May 6, 2021 at 2:49 PM

Subject: RE: DV Vlsa Inquiry - 2021AS [REDACTED]

To: [REDACTED] <[REDACTED]@gmail.com>

Thank you for your inquiry,

Each Embassies are guided by the visa office on the categories that can be processed. Currently we can process only a limited number of visa categories. Our office is not ready to process your visa category yet. We also do not have additional information on when we will be able to process your visa category.

KCC will contact the applicant as soon as an interview is scheduled.

Thank you,

Consular Section

U.S. Embassy to Sri Lanka and Maldives

☎ 94 (0)11.249.8500 ✉ ConsularColombo@State.gov



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From: Curtis Lee Morrison <curtis@curtismorrisonlaw.com>
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EXHIBIT C

The screenshot shows a web browser window with the URL ceac.state.gov/CEACStatTracker/Status.aspx?App=NIV. The page header includes the U.S. Department of State logo and the text "U.S. DEPARTMENT OF STATE CONSULAR AFFAIRS". A "BACK" button is visible. The main heading is "Visa Status Check". Below this, there is a welcome message and a search form with the following fields:

- Visa Application Type: IMMIGRANT VISA (IV)
- Please enter your Case Number: 2021AF80068 (with example: MTL1999626025)
- Enter the code as shown: WAPV9

The search results are displayed in a modal window titled "U.S. Department of State IMMIGRANT VISA APPLICATION" with a large "Ready" status. The details for the selected case are:

- Immigrant Visa Case Number: **2021AF80068 01 TNS**
- Case Created: 20-Oct-2019
- Case Last Updated: 26-Apr-2021

A message box states: "Your case is ready for your interview when scheduled at the U.S. Consular section. If you have already scheduled an appointment for an interview, please prepare your documents as directed in your appointment letter and appear at the consulate on the appointed date and time. Otherwise, please wait until you have been notified of your interview appointment. Additional information about how Immigrant Visa interview appointments are scheduled can be found at: <http://nvc.state.gov/interview>. For more information, please visit TRAVEL.STATE.GOV." Below this, a message says "Your search has returned multiple results. Please select the Case Number to display the status." followed by a table:

Case Number	Status
2021AF80068 01 TNS	Ready
2021AF80068 02 TNS	Ready
2021AF80068 03 TNS	Ready
2021AF80068 04 TNS	Ready
2021AF80068 05 TNS	Ready

A "Close" button is located at the bottom of the modal window. At the bottom of the page, there is a footer with a logo and text: "This site is managed by the Bureau of Consular Affairs, U.S. Department of State. External links to other Internet sites should not be construed as an endorsement of the views contained therein. [Copyright Information](#) [Disclaimers](#) [Paperwork Reduction Act](#)".