

Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FAYEZ MANSOR et al.,

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND  
IMMIGRATION SERVICES et al.,

Defendants.

Case No. 2:23-cv-00347-JLR

**JOINT STATUS REPORT AND  
DISCOVERY PLAN**

The parties, by and through their respective counsel of record, submit this Joint Status Report and Discovery Plan pursuant to the Court’s Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement, Dkt. 60. *See also* Dkt. 70 (extending deadlines for submitting report and discovery plan).

**1. Nature and Complexity of the Case**

Plaintiffs’ statement: This national class action suit challenges Defendants’ policy and practice of failing to grant interim employment authorization and issue employment authorization documentation to Temporary Protected Status (TPS) applicants who are prima facie eligible for TPS, as required by 8 U.S.C. § 1254a(a)(4). Defendants’ failure to abide by the statute harms Plaintiffs and class members because it interferes with their ability to work in the United States and provide for themselves and their families.

1 Plaintiffs bring claims under the Declaratory Judgment Act, the Administrative Procedure  
2 Act, and the Fifth Amendment. First, they seek a declaration that 8 U.S.C. § 1254a requires  
3 Defendants to provide employment authorization documentation while Plaintiffs' TPS applications  
4 are pending. Second, they allege that Defendants' policy and practice is arbitrary, capricious, not in  
5 accordance with the law, and short of statutory right, for it deprives individuals lawfully entitled to  
6 work authorization of that authorization and the accompanying documentation to demonstrate it.  
7 Third, they assert Defendants' policy and practice also constitutes "agency action unlawfully  
8 withheld," 5 U.S.C. § 706(1), given their failure to provide employment authorization  
9 documentation to Plaintiffs when it is mandatory for them to do so. Finally, Plaintiffs argue that  
10 Defendants' refusal to implement a process or procedure to afford them evidence of employment  
11 authorization violates their procedural and substantive due process rights under the Fifth  
12 Amendment. Plaintiffs believe the Court can resolve most, if not all, of their claims on summary  
13 judgment.

14 Defendants' statement: This is a nationwide class action challenging Defendants policy and  
15 practice concerning the issuance of employment authorization to TPS applicants. While Plaintiffs'  
16 complaint includes four counts, all four counts depend on a single allegation. Plaintiffs allege that  
17 USCIS is failing to issue employment authorization to TPS applicants who are prima facie eligible  
18 for TPS in accordance with 8 U.S.C. § 1254a and its implementing regulations. *See* ECF No. 1 at ¶¶  
19 44-56. Specifically, Plaintiffs allege that "[t]he receipt of a *completed* [TPS] application  
20 establishes the necessary prima facie eligibility for temporary benefits" and therefore, "USCIS is  
21 required to issue interim 'temporary treatment' benefits, including work authorization, upon  
22 receipt of a completed application." *Id.* at ¶¶ 40, 45. Defendants deny Plaintiffs' allegations and  
23 assert that Plaintiffs' claims can be resolved on cross motions for summary judgment.

## 24 2. Deadline for Joining Additional Parties

1 The parties propose January 22, 2024, as the deadline to join parties. The parties do not  
2 anticipate joining additional parties.

3 **3. Whether Parties Consent to Assignment of This Case to a Magistrate Judge**

4 No.

5 **4. Discovery Plan**

6 **(A) Initial Disclosures**

7 Given Defendants' filing of the Certified Administrative Record (CAR), Dkt. 73, the parties  
8 have not exchanged initial disclosures.

9 **(B) Subject, Timing, and Potential Phasing of Discovery**

10 The parties have conferred concerning extra-record discovery and have agreed that Plaintiffs  
11 will seek additional discovery in order to clarify the contents of the CAR.

12 The parties have agreed that Defendants will produce a representative sample of statistics  
13 regarding the 72,086 individuals who have received interim TPS related 8 C.F.R. § 274a.12(c)(19)  
14 (hereinafter (c)(19)) employment authorization documents from the 72,086 issued in FY 2022. This  
15 sample will contain the following data on 660 randomly selected individuals: (1) Date Form I-821  
16 (Application for TPS) filed; (2) Date Form I-765 (Application for Employment Authorization  
17 Document) filed; (3) Date I-765 adjudicated; (4) Date RFE (Request for Evidence) for I-821 issued;  
18 (5) Date (c)(19) employment authorization document was issued; (6) Date I-821 adjudicated; and  
19 (7) Number of days between the issuance of the (c)(19) employment authorization document and  
20 final adjudication of I-821. Defendants will produce this data by January 31, 2024.

21 The parties have agreed that Defendants will produce statistics on processing times under  
22 the Streamlined Case Processing (SCP) program for TPS related (c)(19) employment authorization  
23 documents. The statistics will include processing timelines for TPS SCP (c)(19)s for a six-month  
24

1 period, from October 17, 2023, to April 16, 2024. Defendants will produce this data by April 30,  
2 2024.

3 The parties further agree that Plaintiffs may seek additional discovery that will clarify  
4 information referred to in the CAR. At this time, the Parties agree that Plaintiffs will initially seek  
5 this information via interrogatories to Defendants regarding the matters on which they seek  
6 clarification or further information. The parties have also discussed a 30(b)(6) deposition. Plaintiffs  
7 have agreed to first request information via interrogatories and to provide Defendants with a  
8 30(b)(6) deposition notice regarding the topics they would cover in such a deposition. After  
9 Defendants respond to the interrogatories, the Parties will confer about whether a 30(b)(6)  
10 deposition is necessary.

11 In addition, Plaintiffs may seek a deposition of one or two of Defendants' employees who  
12 process and adjudicate employment authorization applications filed in connection with TPS  
13 applications. At this time, Defendants do not agree that depositions of this type are warranted. The  
14 parties agree to meet and confer regarding the need for such depositions following the  
15 interrogatories. Plaintiffs reserve the right to request such depositions if the parties cannot reach an  
16 agreement.

17 The parties will engage in this limited discovery starting in January 2024, so that fact  
18 discovery may be completed by May 31, 2024. Plaintiffs intend to serve their interrogatories by  
19 January 31, 2024, to allow the Parties time to meet and confer regarding Defendants responses and  
20 the need for depositions.

21 **(C) Electronically Stored Information**

22 The parties will meet and confer as necessary to address any issues that arise with respect  
23 to such information. At this time, they do not believe a separate, specialized protocol is  
24 necessary.

1                   **(D) Privilege Issues**

2                   The Court has entered a protective order, Dkt. 72, which includes a provision governing the  
3 inadvertent production of privileged or otherwise protected material as well as a non-waiver order  
4 under Federal Rule of Evidence 502(d).

5                   **(E) Proposed Limitations on Discovery**

6                   The parties have agreed to limit discovery to the Certified Administrative Record, Dkt. 73,  
7 and extra-record discovery required to clarify the contents of that record.

8                   **(F) The Need for Any Discovery-Related Orders**

9                   The Court has already granted the parties' stipulated motion for a protective order. *See* Dkt.  
10 72.

11                   **5. Parties' Views, Proposals, and Agreements on Items Set Forth in Local Civil  
12 Rule 26(f)(1)**

13                   **(A) Prompt Case Resolution**

14                   Plaintiffs' position: Plaintiffs are committed to a prompt resolution of their claims and, to  
15 that end, have agreed to discovery that is limited by both time and scope. Plaintiffs remain willing to  
16 discuss other possibilities for promptly settling or otherwise resolving this case.

17                   Defendants' position: Defendants are likewise committed to a prompt resolution of this case  
18 and have agreed to limited extra-record discovery to accomplish this goal. Although Defendants do  
19 not presently wish to settle this case, Defendants will continue to assess whether this case may be  
20 resolved via settlement and will consider any offer for settlement presented by Plaintiffs.

21                   **(B) Alternative Dispute Resolution**

22                   Plaintiffs' position: Plaintiffs believe that resolution by summary judgment is reasonably  
23 likely in this matter. As previously stated, they remain willing to discuss other possibilities for  
24

1 promptly settling or otherwise resolving this case, including engaging in alternative dispute  
2 resolution.

3 Defendants' position: This case should be resolved via cross motions for summary  
4 judgment. Although Defendants do not presently wish to settle this case, Defendants will continue  
5 to assess whether this case may be resolved via settlement and will consider any offer for settlement  
6 presented by Plaintiffs.

7 **(C) The Existence of Related Cases**

8 The parties are aware of no related cases raising the claims in this action pending before  
9 another federal or state court.

10 **(D) Discovery Management**

11 The parties are willing to work together to manage discovery in a way that will promote the  
12 expeditious and inexpensive resolution of this case. To that end, they have already agreed to limit  
13 discovery to the Certified Administrative Record, Dkt. 73, and any extra-record discovery required  
14 to clarify the contents of that record.

15 **(E) Anticipated Discovery Sought**

16 Plaintiffs have outlined the scope of anticipated discovery sought in *supra* Section 4(B).

17 **(F) Phasing Motions**

18 The parties agree that no phasing of motions is necessary. The parties anticipate filing  
19 motions for summary judgment following the close of discovery.

20 **(G) Preservation of Discoverable Information**

21 The parties acknowledge their duty to take reasonable steps to preserve discoverable  
22 information in the party's possession, custody, or control, and have taken steps to comply.

23 **(H) Privilege Issues**

1 As noted in Section 4(D), the Court has entered a protective order, Dkt. 72, which includes a  
2 provision governing the inadvertent production of privileged or otherwise protected material as well  
3 as a non-waiver order under Federal Rule of Evidence 502(d).

4 **(I) Nature, Location, and Scope of Discoverable ESI and Adoption of Model**  
5 **Agreement Regarding Discovery of Electronically Stored Information in**  
6 **Civil Litigation**

7 The parties anticipate that Defendants' production will include Electronically Stored  
8 Information and will meet and confer as necessary to address any issues that arise with respect to  
9 such information. *See supra* at 4(C).

10 **(J) Alternative to the Model Agreement**

11 Not applicable.

12 **(K) Date and proposed briefing schedule for Plaintiffs' motion for class**  
13 **certification, if applicable**

14 The Court has already granted Plaintiffs' class certification motion. *See* Dkt. 59.

15 **6. Date Discovery Can Be Completed**

16 The parties agree discovery should be completed by May 31, 2024.

17 **7. Bifurcation of Trial**

18 The parties submit that the case is not amenable to bifurcation.

19 **8. Whether pretrial statements and pretrial order called for by LCR 16(e), (h), (i),**  
20 **and (k) and 16.1 should be dispensed with in whole or in part**

21 The parties agree that this case will likely be resolved on summary judgment. In the unlikely  
22 event that a trial is ordered in this case, the parties do not wish to dispense with the pretrial  
23 statements and orders called for by the aforementioned Local Rules.

24 **9. Use of Individualized Trial Program (LCR 39.2) and ADR options (LCR 39.1)**

1 The parties believe that resolution by summary judgment is reasonably likely. Therefore, at  
2 this time, they do not intend to utilize the Individualized Trial Program or an Alternative Dispute  
3 Resolution option.

4 **10. Other Suggestions for Shortening or Simplifying the Case**

5 The parties do not have any suggestions for shortening or simplifying the case at this time,  
6 but they will work cooperatively to identify such opportunities, including the possibility of  
7 stipulating to any undisputed facts.

8 **11. The Date the Case Will Be Ready for Trial**

9 In the unlikely event that a trial is ordered in this case, the parties anticipate that the case will  
10 be ready for trial by November 2024.

11 **12. Jury or Non-Jury Trial**

12 Non-jury trial.

13 **13. Number of Trial Days Required**

14 In the unlikely event that a trial is ordered in this case, the parties estimate that three (3) days  
15 will be required for trial.

16 **14. Names, Addresses, and Telephone Numbers of all Trial Counsel**

17 Plaintiffs' Trial Counsel:

18 Matt Adams, Glenda M. Aldana Madrid, Aaron Korthuis, Leila Kang  
19 Northwest Immigrant Rights Project  
615 Second Ave., Suite 400  
Seattle, WA 98104  
20 (206) 957-8611

21 Mary Kenney, Trina Realmuto, Kristin Macleod-Ball  
22 National Immigration Litigation Alliance  
10 Griggs Terrace  
Brookline, MA 02446  
23 (617) 819-4648

24 Ira J. Kurzban, Edward F. Ramos



1 Kurzban, Kurzban, Tetzeli & Pratt, P.A.  
2 131 Madeira Avenue  
3 Coral Gables, FL 33134  
4 (305) 444-0060

5 Defendants' Trial Counsel:

6 Mary L. Larakers  
7 Kevin C. Hirst  
8 Trial Attorneys  
9 United States Department of Justice  
10 Office of Immigration Litigation – District Court Section  
11 P.O. Box 868  
12 Ben Franklin Station  
13 Washington, DC 20044  
14 T: (202) 353 4419

15 **15. Trial Date Conflicts**

16 Plaintiffs' Counsel are currently scheduled for trial from November 4-15, 2024; April 7-25,  
17 2025; and October 6-16, 2025.

18 Defendant's Counsel: Defendants do not currently have any trial date conflicts.

19 **16. Service**

20 Plaintiffs, through their counsel, have effected service on all Defendants.

21 **17. Pretrial FRCP 16 conference**

22 The parties do not request a pretrial conference.

23 **18. Corporate Disclosure Statements**

24 There are no nongovernmental corporate parties in this case at this time.

RESPECTFULLY SUBMITTED this 22nd day of December, 2023.

Respectfully submitted,

s/ Matt Adams

Matt Adams, WSBA No. 28287  
matt@nwirp.org

s/ Mary Kenney

Mary Kenney\*  
mary@immigrationlitigation.org

1 s/ Aaron Korthuis  
Aaron Korthuis, WSBA No. 53974  
2 aaron@nwirp.org

s/ Trina Realmuto  
Trina Realmuto\*  
trina@immigrationlitigation.org

3 s/ Glenda M. Aldana Madrid  
Glenda M. Aldana Madrid, WSBA No. 46987  
4 [glenda@nwirp.org](mailto:glenda@nwirp.org)

s/ Kristin Macleod-Ball  
Kristin Macleod-Ball\*  
kristin@immigrationlitigation.org

5 s/ Leila Kang  
Leila Kang, WSBA No. 48048  
leila@nwirp.org

NATIONAL IMMIGRATION  
LITIGATION ALLIANCE  
10 Griggs Terrace  
Brookline, MA 02446  
(617) 819-4648

6 NORTHWEST IMMIGRANT  
7 RIGHTS PROJECT  
615 Second Ave., Suite 400  
8 Seattle, WA 98104  
(206) 957-8611

9 s/ Ira J. Kurzban  
10 Ira J. Kurzban\*  
ira@kktplaw.com

11 s/ Edward F. Ramos  
12 Edward F. Ramos\*  
eramos@kktplaw.com

13 KURZBAN KURZBAN  
14 TETZELI & PRATT, P.A.  
131 Madeira Avenue  
15 Coral Gables, FL 33134  
(305) 444-0060

16 *Counsel for Plaintiffs*

17  
18 BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General  
19 Civil Division

20 WILLIAM C. PEACHEY  
Director  
21 Office of Immigration Litigation  
District Court Section

22 ELIANIS PEREZ  
23 Assistant Director

24 KEVIN HIRST

1 Trial Attorney

2 */s/Mary L. Larakers*

\_\_\_\_\_  
MARY L. LARAKERS

3 Trial Attorney

Office of Immigration Litigation

4 U.S. Department of Justice

Civil Division

5 P.O. Box 868, Ben Franklin Station

Washington, D.C. 20044

6 Telephone: (202) 353-4419

Email: mary.l.larakers@usdoj.gov

7

*Counsel for Defendants*

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24