

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DOMINGO ARREGUIN GOMEZ, *et al.*,
Plaintiffs,

v.

JOSEPH R. BIDEN, JR., President of the United States
of America, *et al.*,

Defendants.

Civil Action No. 1:20-cv-01419

**SUPPLEMENTAL DECLARATION OF TESS HELLGREN IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR STAY**

I, Tess Hellgren, declare upon my personal knowledge, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am an attorney and the Deputy Legal Director of Innovation Law Lab and counsel of record in *Gomez v. Biden*, No. 1:20-cv-01419. I am a member in good standing of the Oregon and Florida state bars. I have personal knowledge of the following facts and, if called to testify thereto, I would and could competently do so.

2. On February 4, 2022, I worked cooperatively with my co-counsel in the *Gomez* action to develop an online form designed to collect information from *Gomez* class members who are facing ongoing impacts from Defendants' failure to adjudicate their 2020 diversity visas. The form may be accessed at <https://innovation-law-lab.typeform.com/to/MJ33PIGz>.

3. On February 5, 2022, Innovation Law Lab sent the form by e-mail directly to 4,111 potential class members whose contact information our organization has collected since this Court's September 30, 2020 Order certifying the class and naming Innovation Law Lab and co-counsel as class counsel. This sign-up form can be accessed through our October 3, 2020, press release, "DV-2020 Winners: Class Member Information Signup," at <https://innovationlawlab.org/>

press-release/litigation/dv-2020-winners-class-member-information-signup/. In our February 5, 2022 e-mail, Innovation Law Lab provided a link to the survey and asked *Gomez* class members to share their experience with the court. A copy of the e-mail is attached at Exhibit A.

4. The class survey is designed to actively screen out (1) represented parties, unless they have their attorney's explicit permission to participate, (2) individuals who are not members of the *Gomez* class, as defined in this Court's September 30, 2020 Order, and (3) class members whose DV-2020 visas were issued in September 2020, pursuant to this Court's September 4, 2020 Order.

5. When an individual accesses the survey, the individual is provided with background about the case. They are also told that any information they share may be used in this case, including in Plaintiffs' written opposition to Defendants' stay motion. Once they accept and proceed with the survey, the individual is then asked "Are you currently represented by a lawyer regarding your Diversity Visa application, including as a named plaintiff in another lawsuit?" If they answer, "No," they may proceed to the next question. If they answer, "Yes," they may not proceed to answer any additional questions unless they confirm that they have spoken with their lawyer, and their lawyer has given them permission to provide information about their Diversity Visa through this survey.

6. Individuals who proceed past the representation screen are then asked questions to confirm their membership in the DV-2020 class. First, individuals are asked whether they are a Diversity Visa 2020 winner. Only individuals who answer "Yes" are able to continue with the survey. These individuals are then asked whether their 2020 Diversity Visa was issued on or before April 23, 2020. Only individuals who answer "No" are able to continue with the survey as self-identified class members. These self-identified class members are then asked whether their 2020 Diversity Visa was issued in September 2020. Only individuals who answer "No" are able to

continue with the survey as they are still eligible to receive one of the 9,095 2020 Diversity Visas reserved by the Court.

7. Class members who continue the survey are asked to provide their name, e-mail address, DV-applicant confirmation number (optional), passport country, and number of derivatives included in their application.

8. Class members are then asked “Has your delay in having your diversity visa processed had any of the following negative impacts on you?” In response to that question, a respondent may select as many options as apply from: (a) Separation from family members, (b) Disruption to employment, (c) Financial/economic cost, (d) Disruption to household stability, (e) Medical or health ramifications, (f) Forced you to remain in an unsafe location/country, (g) None of the above.

9. Class members are then asked to provide an optional free-text reply to the question “How have you been impacted by your uncertainty as to the processing of the 9,095 reserved DV-2020 visas?”

10. Finally, class members are asked to provide an optional free-text reply to the question “Is there anything else you would like to tell us about how your inability to enter the United States has impacted you or your family?”

11. On February 10, 2022, I personally reviewed the survey results that Innovation Law Lab had received to date through the above-described form. I worked to organize the data and summarize the survey results, based on the data that we had received as of approximately 12:00pm EST on February 10, 2022.

12. As of the time I reviewed the results, there had been 1028 unique responses to the survey. In analyzing the data, I removed 17 responses that were left blank or incomplete, 7 responses from individuals who did not click through to accept the terms of the survey, 69

responses from individuals who indicated that they were represented by an attorney and had not received permission to participate, 170 responses from individuals who indicated that they were not a *Gomez* class member, and 22 responses from individuals who indicated that they had received a 2020 Diversity Visa in September 2020, all of whom thus did not provide additional information. I then removed 2 incomplete responses and 36 duplicates, where identical names and related information appeared.

13. After taking the steps above to clean the data, our dataset contained 705 unique responses from self-identified *Gomez* class members from 61 different countries. More than half of respondents reported dependents: 128 respondents (18%) reported having one dependent and 265 respondents (38%) reported two or more dependents.

14. When asked about the impacts they have experienced from Defendants' delayed adjudication of their 2020 Diversity Visas, nearly one-quarter of respondents (166, or 23.5%) reported that they had been forced to remain in an unsafe location or country. A representative sample of further responses is below:

- (a) Hesham A., from Yemen, lives in fear in the capital city of Sanaa due to regular air-raids and bombings from the Saudi-led coalition. Hesham has been impacted by political instability and food insecurity and says that all his hope is centered on this visa.
- (b) Tekwe M., from Cameroon, is living through an ongoing civil war. His family home was burned in the war and he now rents a single room where he lives with his family of four, including his blind mother. He has lost his job and cannot provide for his family.
- (c) Sayed P., from Afghanistan, lives in fear after the Taliban took over his country. He previously worked as a payroll officer in the former Afghan government. His

passport is expiring soon and he believes he will be unable to renew it because the Taliban is searching for him. Sayed and his wife are expecting a baby but given their current desperation, he writes that “I am seeing there is a zero percent hope for my life.” He sees the diversity visa as his “only hope” to seek safety.

(d) Zakia Q., from Afghanistan, lives in fear as an Afghan woman under the Taliban regime. She and her husband are currently in hiding from the Taliban. Her husband fears retaliation from the Taliban because he was a social activist and worked for the former Afghan government. Because of the ongoing delay, she writes that “[e]very thing is unclear and we couldn’t take any right decision for our life.”

(e) Firehiwot A., from Ethiopia, suffers from the prolonged civil war in the Tigray region. She lives in fear because of her Tigrayan ethnicity, as many individuals with her ethnicity have been detained in the war. She and her spouse have suffered depression from their ongoing “limbo” and she writes that the continued delay is “a daily pain to my mind.”

(f) Yauhen K., from Belarus, was forced to flee his country because his wife was an activist in the 2020 Belarusian presidential election. He stated that “[t]he delay in processing of the case deprives the opportunity for us to live and work in a free society.”

(g) James K., from Uganda, regularly receives death threats from the police and unknown assailants because he is a member of the opposition political party. Due to increased state killings and torture, he writes that he is “not certain if I live to see the next day.” He also resigned from his job when he won the visa lottery and has been unable to find new employment since then.

15. Large numbers of class members also reported harms to their family units. 40% (285) of respondents reported suffering disruption to household stability, and 17% (120) reported enduring separation from family members. Many reported that visa processing delays had caused tensions in their relationships, even causing them to separate from their partners. Some have derivatives who are at risk of aging out. A representative sample of further responses is below:

- (a) Joseph T., from the Democratic Republic of Congo, lost his job and apartment while waiting for his visa. The stress of the situation strained his relationship with his fiancé and his fiancé left him. He writes that “I have been living in uncertainty for almost 2 years now. [I]t’s indescribable.”
- (b) Monica A., from Uganda, has been separated from her partner for years because of the delays. Their children are now 10 and 14 years old and she writes that they “sometimes make statements that break my heart . . . When they start talking about what they used to do with their father and imagine what they would be doing and the silence which comes up in the room just shows how they are hurting deep inside.” Monica is counting on the resumption of visa processing to reunite her family.
- (c) Vadim S., from Lithuania, said that the delays caused so much stress that he and his wife divorced.
- (d) Liudmila C., from Russia, has two children who will turn 21 years old in December 2022 and are at risk of aging out from receiving the diversity visa. They will “lose their lifelong dream to live in the USA.” She writes that it is “really tough to live in uncertainty waking up every day and thinking maybe today something is going to change.”

16. Class members' survey responses vividly illustrate how diversity visa delays have impacted multiple aspects of their lives. Class members report suspending their lives in the hopes of receiving a visa adjudication, including delaying having children, turning down job opportunities, and abandoning other immigration opportunities. In addition to civil unrest and family-related impacts, approximately half of survey respondents reported economic harms due to Defendants' delayed adjudication of their 2020 diversity visas. 48% of respondents (340) reported disruption to employment and 53% of respondents (375) reported financial/economic cost. Class members report sacrificing professional opportunities and losing the chance to open a business or sell their home because of the uncertainty of the visa process. 16% of respondents (113) also reported medical or health ramifications from the delayed adjudication of their DV-2020 visa. Many suffer medical issues for which they could receive treatment in the United States. A representative sample of further responses is below:

- (a) Amali B., from Sri Lanka, planned to have a child but delayed her pregnancy because she was afraid of travelling while pregnant. As the years pass by while waiting for her visa, she is afraid that the delay will impact her fertility. Amali's husband has turned down good foreign job opportunities while awaiting the adjudication of their diversity visa, as they want to prevent any delay in receiving their visa interview. Amali reports that they "are mentally suffering from this delay" and their "dream [is] to live in the USA while contributing to the economy and society as good parents."
- (b) Mozghan K., from Iran, has a 16-year-old son who has suffered from a form of Crohn's disease for the past five years. Due to sanctions on Iran, she is unable to access affordable medicine for her son, which is readily available in the United States. Without the medication, her son is very weak and has been unable to attend

school in person for the past three years. If Mozhgan's family were able to immigrate to the United States, her son would be able to receive life-saving treatment and also attend school regularly. Mozhgan's family is also struggling to pay rent because of delays in receiving their diversity visas. In 2019, the U.S. Embassy in Yerevan instructed Mozhgan and her husband to liquidate funds into cash and place this cash into a bank account to show that they are fiscally able to support themselves and not be a burden on American society when they immigrate to the United States. Since this time, the price of housing has ballooned, so their rent now is exorbitant, as is the price of a new home. This situation is causing them great financial distress, even though Mozhgan and her husband both continue to work full time as lawyers.

(c) Rutha K., from the Democratic Republic of Congo, and her husband sold all of their possessions and quit their jobs in anticipation of moving to the United States. They also sold their home in order to pay the necessary administrative fees for the diversity visa process. While waiting for their visas, their "lives have [t]aken a very difficult turn" and they are "currently struggling a [l]ot." As a result of the stress from this delay, Rutha's husband now suffers from high blood pressure.

(d) Yury S., from Belarus has suffered from serious health conditions and civil unrest while waiting for the adjudication of his visa. Due to the stress of the process and delay, Yury suffers from insomnia and depression. He also required a thrombectomy and now pays for expensive medications to treat his condition. The stress also caused Yury's wife to develop a cyst in her chest and undergo surgery. Yury also limited his professional trajectory in preparation for his departure to the United States. Yury now fears for the safety of his wife and children due to the

ongoing socio-political and economic crisis in Belarus. He reports that “my children suffer from the fact that their parents are in a state of constant anxiety and insecurity” and “winning the DV Lottery was my luck and curse at the same time.”

(e) Artem B., from Russia, gave up his job contract in preparation for his family’s immigration to the United States, where he and his wife had previously lived while he was a Fulbright Scholar. Artem now works as a freelancer and has lost salary and benefits. Artem was so stressed and anguished from the visa situation that he is deeply depressed and developed a compulsive eating disorder. He has gained weight and was diagnosed with high blood sugar. Artem reports that the “most devastating toll” has been on his son, as “watching his disappointment and the evaporation of his dream is excruciating.”

(f) Tolga G., from Turkey, quit his job in March 2020 and began to interview with U.S. companies because he had won the DV lottery. He has now been unemployed for two years while waiting for the diversity visa process to resume. He is having “serious financial difficulties” and has moved back in with his parents at the age of 45 because he cannot pay his rent. He writes that “[m]y life is ruined.”

(g) Samuel S., from Kenya, quit his job because he won the lottery. He now has a lower paying job and struggles to provide for his family. He describes the waiting process as “mental torture.”

17. Almost exactly one year ago, I submitted my first declaration in this case, summarizing the results of a class member survey that class counsel launched in February 2021. Having personally reviewed class member responses to both surveys, I can attest to the consistent desperation, hopelessness, and dire conditions that class members express, due to their wait for diversity visa processing as well as their uncertainty of whether it will ever occur.

I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed at Gainesville, Florida, on February 15, 2022.


Tess Hellgren

EXHIBIT A

From: **Gomez Class Counsel via ActionNetwork.org** <jordan@innovationlawlab.org>
Date: Fri, Feb 4, 2022 at 11:04 PM
Subject: Gomez Class Survey Regarding Ongoing Impacts

Dear *Gomez* Diversity Class Members,

You are receiving this email from counsel in *Gomez v. Biden* because you responded to a call for plaintiffs from BritSimonSays.com or contacted us directly as a DV-2020 selectee and/or an individual acting on their behalf. If you are a FY2020 Diversity Visa Selectee who did not receive a diversity visa on or before April 23, 2020 because of Proclamation 10014, you are a class member in the certified *Gomez* class.

We are writing to provide an update on the *Gomez* case and recent developments that may affect the class.

Today, *Gomez* class counsel submitted [a letter](#) to the court informing Judge Mehta of our opposition to the government's [request for a stay](#) of the case, which would delay the State Department's processing of the 9,095 reserved DV-2020 visas. We intend to submit our full opposition brief to the court by February 15, 2022.

In the government's motion to pause the case, the government argued that *Gomez* class members would not face any irreparable harm if the processing of their DV-2020 visas is further delayed. We know from our communication with class members that the government is wrong. In our written opposition, we will describe the ongoing difficulties and harm that our class members face while awaiting the processing of the 9,095 reserved visas. If you are a *Gomez* class member still waiting for a DV-2020 visa and you would like *Gomez* class counsel to share your experience with the court, please contact us at [this link](#) by next Wednesday, February 9.

We remain committed to fighting vigorously for your rights and making your voices heard.

Sincerely,

American Immigration Lawyers Association

www.aila.org

Justice Action Center

www.justiceactioncenter.org

Innovation Law Lab

www.innovationlawlab.org

The Law Office of Laboni A. Hoq



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