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February 8, 2021

Mark J. Langer
Clerk, U.S. Court of Appeals
for the D.C. Circuit
333 Constitution Avenue, N.W.
Washington, DC 20001

Re: Response to Appellants' Rule 28(j) Letter in *Gomez v. Trump*, 20-5292 (D.C. Cir.) (oral argument held on Jan. 14, 2021).

Dear Mr. Langer:

Pursuant to the Court's order on February 4, 2021, the Government responds to Appellants' Rule 28(j) letter filed on February 2, 2021. Appellants' letter raises an issue with the relief that the district court provided to "the diversity-visa Plaintiffs and the more than 3,200 other class members" in the form of "visas [issued to them] in September[.]" Letter at 2. Appellants ask this Court for "prompt relief from the Proclamations" because, "[t]hese individuals' visas will begin to expire as early as March 10, and all of them will expire before the Proclamations lapse by their own terms on March 31." *Id.* The government agrees that the visas issued pursuant to the preliminary injunction are likely to expire in the month of March.

We note that if Plaintiffs believe they need interim relief prior to March, that relief should be sought in district court. At oral argument, Appellants' counsel addressed the situation regarding the diversity-visa plaintiffs, whose visas will expire before the Proclamations lapse. Arg. Tr. 8:21-8:49. In response to Appellants' counsel, Judge Tatel suggested that those plaintiffs would "have to go back to the district court" for further relief. *Id.* at 9:11-9:15. Appellants' counsel acknowledged this, and conceded that Appellants would "have to seek additional relief to get the visas reissued." *Id.* at 9:32-9:43.

The district court held status conferences on January 19 and January 29, 2021, to discuss the issue of the expiring visas. At both status conferences, the district court invited Plaintiffs to move for additional relief and provide briefing on whether the court can order the State Department to re-issue diversity visas beyond the statutory deadline. As of the date of this response, Plaintiffs have not yet filed any such motion.

Finally, at this time, the Government has no developments to report regarding the Proclamations at issue in this case.

Sincerely,

By: /s/ James J. Wen

JAMES J. WEN

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CERTIFICATES OF SERVICE AND COMPLIANCE

I hereby certify that this filing is 303 words, and therefore complies with the word limitations of Federal Rule of Appellate Procedure 28(j) and this Circuit's local rules.

I hereby certify that on February 8, 2021, I electronically filed the foregoing letter brief with the Clerk of the Court by using the appellate CM/ECF system. Counsel of record are registered CM/ECF users.

/s/ James J. Wen

JAMES J. WEN

Trial Attorney

U.S. Department of Justice