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23 UNITED STATES DISTRICT COURT
24 CENTRAL DISTRICT OF CALIFORNIA
25 WESTERN DIVISION

26 CAROLYN ROBB HOOTKINS, ANA MARIA) Case No. CV07-05696 (CAS)
27 MONCAYO-GIGAX, SUZANNE HENRIETTE)
28 DEMAILLY, SARA CRUZ VARGAS)
29 DE FISHER, RAYMOND LOCKETT, ELSA)
30 CECILIA BRENTESON, PAULINE MARIE)
31 GOBEIL, DAHIANNA HEARD, ROSE)
32 FREEDA FISHMAN-CORMAN, KHIN THIDAR)
33 WIN, DIANA GEJAC ENGSTROM, MARIA)
34 DEL CARMEN DIAZ RUIZ, (CONT.),)
35 and others similarly situated,)~~PROPOSED~~ ORDER GRANTING
36 Plaintiffs,) STIPULATION TO STAY
37) PROCEEDINGS
38)
39 v.)
40)
41 MICHAEL CHERTOFF, Secretary, U.S.)
42 Department of Homeland Security,)
43 et al.)
44)
45 Defendants.)

1 (Plaintiffs cont.) GLADYS WALSH,
2 LI JU LU, YELENA ARIAS ANGULO,
3 PURITA MANUEL POINDEXTER, TRACY
4 LEE RUDL, DIEU NGOC NGUYEN,
5 AGNIESZKA BERNSTEIN, SARAH
6 BAYOR, STELLA STANDIFER, AND
7 FARAH BATOOL,
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1 Plaintiffs and Defendants, by and through their undersigned
2 counsel, enter the following stipulation:

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4 1. Since enactment of either S. 3369, as introduced in the
5 Senate on July 30, 2008, or H.R. 6034, as amended by the House
6 Committee on the Judiciary Committee on July 16, 2008, would
7 resolve all or part of the issues being litigated in this case,
8 proceedings in this case are stayed pending further order of the
9 Court.
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11 2. Counsel for the Parties will confer on October 10,
12 2008, and advise the Court thereafter concerning the status of S.
13 3369, H.R. 6034, or any other legislation that may affect this
14 case.

15 3. (a) Without conceding any issue concerning the class
16 certification motion or the merits of this case, Defendants agree
17 that any individual described in paragraph 3(b) of this
18 Stipulation who is in the United States, and who has applied for
19 adjustment of status, and who is not otherwise authorized to
20 accept employment in the United States, may apply for employment
21 authorization under 8 C.F.R. § 274a.12(c)(9). Without intending
22 to set a precedent for any other litigation, Defendants agree
23 that the pendency of this litigation provides a reasonable basis
24 for saying that their adjustment applications should be deemed
25 still to be pending, for purposes of 8 C.F.R. § 274a.12(c)(9).
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1 (b) Individuals who may apply for employment
2 authorization under this agreement include only:

3 (1) The individual named plaintiffs in this
4 action, including both those living in the 9th Circuit and those
5 living elsewhere in the United States; and

6 (2) The putative 9th Circuit class members
7 identified in a single communication by Plaintiffs' counsel to
8 Defendants' counsel, to be provided no later than September 3,
9 2008.

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11 4. Any individual seeking employment authorization under
12 this stipulation must file USCIS Form I-765, with the required
13 filing fee, and the evidence required by the Instructions to Form
14 I-765. In addition to the evidence required by the Instructions,
15 the individual shall submit:

16 (a) A copy of the Notice of Action (filing receipt)
17 for the individual's Form I-485

18 (b) A copy of the Notice of Action (filing receipt)
19 for the deceased spouse's Form I-130 (or Form I-129, for a K-1
20 case), or, if the Form I-130 or Form I-129F was filed at a U.S.
21 Embassy or Consulate abroad, other proof of filing.

22 (c) A copy of this Stipulation.

23
24 5. Without conceding any issue concerning standards of
25 discretion or the merits of this case, Plaintiffs agree that for
26 purposes of this stipulation, whether to grant employment
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1 authorization to an individual described in paragraph 3(b) of
2 this Stipulation is, under 8 C.F.R. § 274a.13, a matter entrusted
3 to the Defendants' discretion. Defendants will, however,
4 exercise this discretion according to the same principles that
5 apply generally to adjudication of requests for employment
6 authorization that are filed by adjustment applicants. If the
7 Defendants grant a Form I-765 under this Stipulation, the
8 Defendants will issue an employment authorization document that
9 is valid for one year from the date of issuance.
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11 6. In light of the Court's order (Dkt # 44) denying the
12 Plaintiffs' preliminary injunction motion (Dkt # 12) on the
13 question of the issuance of employment authorization, this
14 Stipulation does not make the Plaintiffs a "prevailing party" on
15 the issue of employment authorization for purposes of the Equal
16 Access to Justice Act.
17

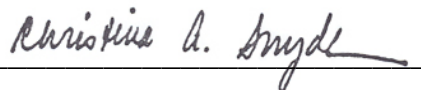
18 7. Should it become necessary to litigate this case further
19 after adjournment of the 110th Congress, this Stipulation will be
20 of no further effect, except that the Defendants will not revoke
21 any employment authorization document that was issued under this
22 Stipulation based solely on the resumption of the litigation.

23 8. Should it become necessary to litigate this case further
24 after adjournment of the 110th Congress, the Plaintiffs may, by
25 proper motion, seek further relief with respect to the ability of
26 the Plaintiffs to apply for extensions of any employment
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1 authorization documents issued under this Stipulation; the
2 Defendants reserve the right to oppose such a motion; and the
3 Parties may also resolve this issue by further Stipulation.
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5 **ORDER**

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8 It is so Ordered.

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11 The Honorable Christina A. Snyder

12 August 21, 2008
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