

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	No. 2:11-cv-01267-SVW (JCGx)	Date	November 3, 2011
Title	Handi Lui et al v. Eric H Holder et al		

Present: The Honorable	STEPHEN V. WILSON, U.S. DISTRICT JUDGE		
Paul M. Cruz	N/A		
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
N/A	N/A		

Proceedings: IN CHAMBERS ORDER re PLAINTIFFS' MOTION FOR LEAVE TO AMEND [40] [41]

On February 11, 2011, Plaintiffs, a same-sex married couple, filed the instant action alleging that denial of Plaintiff Michael Roberts' Form I-130 Petition: (1) violated the Immigration and Nationality Act's ("INA") anti-discrimination provision; and (2) was unconstitutional because of its reliance on the Defense of Marriage Act, which excludes same-sex couples from the definitions of marriage and spouse for purposes of federal law. On June 17, 2011, Defendants as well as Intervenor Bipartisan Legal Advisory Group of the U.S. House of Representatives ("Intervenor") filed motions to dismiss. (Dkt. Nos. 18-19). Defendants moved to dismiss the alleged INA violation while Intervenor moved to dismiss Plaintiffs' constitutional claims.

On September 28, 2011 the Court granted both motions, dismissing Plaintiffs' Complaint without prejudice. (Dkt. No. 38). On October 14, 2011, Plaintiffs filed the instant Motion to Amend Complaint. Under Rule 15(a)(2), courts are to grant leave to amend freely "when justice so requires." Fed. R. Civ. P. 15(a)(2). However, the Court finds that justice does not require granting Plaintiffs leave to amend their Complaint.¹ The Court's September 28, 2011 Order fully adjudicated Plaintiffs' claims on the merits. Accordingly, the case was terminated as of that date. Furthermore, the Court dismissed Plaintiffs' claims without prejudice. Therefore, Plaintiffs are free to file their Proposed First Amended Complaint as an original complaint in a new action. Accordingly, Plaintiffs' Motion is hereby DENIED. The hearing scheduled for November 21, 2011 at 1:30p.m. is hereby VACATED.

¹The Court takes no position on the merits of the newly alleged facts and legal theories contained in Plaintiffs' Proposed First Amended Complaint.

Initials of Preparer _____ : _____
PMC