

**UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF
CALIFORNIA (Western Division – Los Angeles)
CIVIL DOCKET FOR CASE #: 2:11-cv-00728-GW-SH**

Althea Pobre Dayo et al v. Janet Napolitano et al
Assigned to: Judge George H. Wu
Referred to: Magistrate Judge Stephen J. Hillman
Cause: 08:1329 Writ of Mandamus to Adjudicate Visa Petition

Date Filed: 01/25/2011
Date Terminated: 08/09/2012
Jury Demand: None
Nature of Suit: 465 Other Immigration
Actions
Jurisdiction: U.S. Government Defendant

Plaintiff

Althea Pobre Dayo
And others similarly situated

represented by **David M Sturman**
David M. Sturman APC
16530 Ventura Boulevard Suite 306
Encino, CA 91436
818-907-0777
Fax: 818-907-0039
Email: david@davidsturman.com
ATTORNEY TO BE NOTICED

Plaintiff

Don Cajucom
And others similarly situated

represented by **David M Sturman**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Jane Bullecer
And others similarly situated

represented by **David M Sturman**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Ruby Conda
And others similarly situated

represented by **David M Sturman**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Francis Raymond P Dayo

represented by **David M Sturman**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Wblespher Espinoza

represented by **David M Sturman**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Amada Espinoza

represented by **David M Sturman**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Janet Napolitano
Secretary Department of Homeland

represented by **Regan Hildebrand**
US Department of Justice

Security

Civil Division – Office of Immigration
Litigation
P O Box 868 Ben Franklin Station
Washington, DC 20044
202–286–2531
Fax: 202–616–8962
Email: regan.hildebrand@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Alejandro Mayorkas
*Director, U.S. Citizenship and
Immigration Services*

represented by **Regan Hildebrand**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Donald Neufeld
*Associate Director, USCIS Service Center
Operations Directorate*

represented by **Regan Hildebrand**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

F. Gerald Heinauer
Director, USCIS Nebraska Service Center

represented by **Regan Hildebrand**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Robert M. Cowan
Director, USCIS National Benefits Center

represented by **Regan Hildebrand**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

David Roarke
Director, USCIS Texas Service Center

represented by **Regan Hildebrand**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Juan P Osuna
*Executive Director Executive Office for
Immigration Review*

represented by **Regan Hildebrand**
US Department of Justice
Civil Division – Office of Immigration
Litigation
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LEAD ATTORNEY
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Defendant

**Executive Office of Immigration
Review**

represented by **Regan Hildebrand**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|------------|-----------|--|
| 01/25/2011 | <u>1</u> | COMPLAINT against Defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. Case assigned to Judge George H Wu for all further proceedings. Discovery referred to Magistrate Judge Stephen J. Hillman. (Filing fee \$ 350 PAID.), filed by Plaintiffs Don Cajucom, Ruby Conda, Althea Pobre Dayo, Jane Bullecer.(et) (ds). (Entered: 01/25/2011) |
| 01/25/2011 | | 60 DAY Summons Issued re Complaint – (Discovery) <u>1</u> as to Defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. (et) (Entered: 01/25/2011) |
| 01/25/2011 | <u>2</u> | CERTIFICATION AS TO Interested Parties filed by Plaintiffs Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo. (et) (ds). (Entered: 01/25/2011) |
| 02/02/2011 | <u>3</u> | STANDING ORDER REGARDING FINAL PRE–TRIAL CONFERENCES FOR CIVIL JURY TRIALS BEFORE JUDGE GEORGE H WU (see attached order) by Judge George H Wu, (pj) (Entered: 02/02/2011) |
| 02/11/2011 | <u>4</u> | NOTICE of Appearance filed by attorney Regan Hildebrand on behalf of Defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke (Hildebrand, Regan) (Entered: 02/11/2011) |
| 02/14/2011 | <u>5</u> | PROOF OF SERVICE filed by plaintiff Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo, re Summons Issued, Certificate/Notice of Interested Parties <u>2</u> , Complaint – (Discovery), Complaint – (Discovery) <u>1</u> , Notice of Appearance <u>4</u> , Order <u>3</u> served on 02/02/2011. (Attachments: # <u>1</u> Supplement Proof of Service, # <u>2</u> Supplement Proof of Service, # <u>3</u> Supplement Proof of Service, # <u>4</u> Supplement Proof of Service, # <u>5</u> Supplement Proof of Service, # <u>6</u> Supplement Proof of Service, # <u>7</u> Supplement Proof of Service, # <u>8</u> Supplement Proof of Service)(Sturman, David) (Entered: 02/14/2011) |
| 03/22/2011 | <u>6</u> | FIRST STIPULATION Extending Time to Answer the complaint as to All Defendants, filed by Defendants Donald Neufeld, Janet Napolitano, F. Gerald Heinauer, David Roarke, Robert M. Cowan, Alejandro Mayorkas.(Hildebrand, Regan) (Entered: 03/22/2011) |
| 04/07/2011 | <u>7</u> | NOTICE OF MOTION AND MOTION for Extend Time to File Answer to 4/25/2011 filed by Defendant Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. (Attachments: # <u>1</u> Proposed Order)(Hildebrand, Regan) (Entered: 04/07/2011) |
| 04/11/2011 | <u>8</u> | ORDER GRANTING DEFENDANTS' UNOPPOSED MOTION FOR AN EXTENSION by Judge George H Wu: <u>7</u> . Defendants' unopposed motion for an extension to file an Answer by April 25, 2011 is granted. (im) (Entered: 04/12/2011) |
| 04/25/2011 | <u>9</u> | NOTICE OF MOTION AND MOTION to Dismiss for Lack of Jurisdiction filed by Defendant Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. (Attachments: # <u>1</u> Memorandum, # <u>2</u> Exhibit, # <u>3</u> Proposed Order)(Hildebrand, Regan) (Entered: 04/25/2011) |
| 04/27/2011 | <u>10</u> | NOTICE of Hearing for June 20, 2011 at 8:30 AM filed by Defendant Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. (Hildebrand, Regan) (Entered: 04/27/2011) |
| 05/27/2011 | <u>11</u> | MEMORANDUM in Opposition to <i>Defendants Motion to Dismiss</i> filed by Plaintiffs Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo. (Sturman, David) (Entered: 05/27/2011) |
| 06/06/2011 | <u>12</u> | REPLY in support MOTION to Dismiss for Lack of Jurisdiction <u>9</u> filed by Defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. (Hildebrand, Regan) (Entered: 06/06/2011) |

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| 06/13/2011 | <u>13</u> | MINUTE ORDER IN CHAMBERS by Judge George H Wu: The Court, on its own motion, continues Defendants Motion to Dismiss for Lack of Subject Matter Jurisdiction <u>9</u> , filed on April 25, 2011, and presently set for June 20, 2011, to June 30, 2011 at 8:30 a.m. (jag) (Entered: 06/13/2011) |
| 06/30/2011 | <u>14</u> | MINUTES OF DEFENDANTS MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION (filed 04/26/11) held before Judge George H Wu: The Court's tentative ruling is circulated and attached hereto. Court hears oral argument.For reasons stated on the record, Defendants Motion to Dismiss for Lack of Subject Matter Jurisdiction, is continued to July 18,2011 at 8:30 a.m. A joint document regarding any remaining issues will be filed by noon on July 14,2011. Parties may appear telephonically provided that notice is given to the clerk by July 14, 2011. Court Reporter: Wil Wilcox. (pj) (Entered: 07/01/2011) |
| 07/14/2011 | <u>15</u> | STATEMENT Regarding Remaining Issues filed by Defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke (Hildebrand, Regan) (Entered: 07/14/2011) |
| 07/14/2011 | <u>16</u> | NOTICE OF ERRATA filed by Defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke. correcting Statement <u>15</u> (Hildebrand, Regan) (Entered: 07/14/2011) |
| 07/14/2011 | <u>17</u> | STATEMENT <i>Regarding Remaining Issues</i> (Hildebrand, Regan) (Entered: 07/14/2011) |
| 07/18/2011 | <u>18</u> | MINUTES: DEFENDANTS MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION (filed 04/26/11) <u>9</u> : Court hears oral argument. For reasons stated on the record, Defendants Motion to Dismiss for Lack of Subject Matter Jurisdiction, is continued to July 25, 2011 at 8:30 a.m. Parties may appear telephonically provided that notice is given to the clerk by July 21, 2011 by Judge George H Wu. Court Reporter: Wil Wilcox. (ir) (Entered: 07/19/2011) |
| 07/25/2011 | <u>19</u> | MINUTES OF DEFENDANTS MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION <u>9</u> Motion Hearing held before Judge George H Wu: Court hears further oral argument. For reasons stated on the record, Defendants Motion to Dismiss for Lack of Subject Matter Jurisdiction, is continued to August 25, 2011 at 8:30 a.m. Parties may appear telephonically provided that notice is given to the clerk by August 23, 2011. Court Reporter: Pat Cueno. (pj) (Entered: 07/27/2011) |
| 08/01/2011 | <u>20</u> | First STIPULATION to AMEND filed by Plaintiff Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo. (Attachments: # <u>1</u> Proposed Order Stipulation to Amend)(Sturman, David) (Entered: 08/01/2011) |
| 08/04/2011 | <u>21</u> | ORDER by Judge George H Wu: 1. Plaintiffs are granted leave of Court to file First Amended Complaint to add Juan P. Osuna, Executive Director of the Executive Office for Immigration Review, and Executive Office for Immigration Review as Defendants and to add additional Plaintiffs.2. Plaintiffs shall manually file the First Amended Complaint within ten (10)days of this order and serve Defendants. 3. Defendants shall not respond to the original Complaint in this matter unless Plaintiffs fail to file the amended complaint within the time granted.4. Defendants Motion to Dismiss for Lack of Subject Matter Jurisdiction, filed on April 26, 2011, and presently set for August 25, 2011, is vacated and taken off-calendar <u>9</u> . (pj) (Entered: 08/05/2011) |
| 08/19/2011 | <u>23</u> | FIRST AMENDED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT against defendants Robert M. Cowan, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, David Roarke, Juan P Osuna, Executive Office of Immigration Review amending Complaint – (Discovery), Complaint – (Discovery) <u>1</u> , filed by Plaintiffs Don Cajucom, Ruby Conda, Althea Pobre Dayo, Jane Bullecer, Francis Raymond P Dayo, Wblespher Espinoza, Amada Espinoza (pj) (Entered: 08/26/2011) |
| 08/24/2011 | <u>22</u> | NOTICE OF DOCUMENT DISCREPANCIES AND ORDER by Judge George H Wu ORDERING FAC submitted by Plaintiffs Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo received on 8/19/2011 to be filed and processed; filed date to be the date the document was stamped Received but not Filed with the Clerk. (pj) (Entered: 08/26/2011) |

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| 10/04/2011 | <u>24</u> | NOTICE OF MOTION AND MOTION to Certify Class filed by PLAINTIFF Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo, Francis Raymond P Dayo, Amada Espinoza, Wblespher Espinoza. Motion set for hearing on 11/7/2011 at 08:30 AM before Judge George H Wu. (Attachments: # <u>1</u> Proposed Order Proposed Order)(Sturman, David) (Entered: 10/04/2011) |
| 10/23/2011 | <u>25</u> | NOTICE of Continuance of reset to 11/14/11 at 8:30 AM (Attachments: # <u>1</u> Proposed Order)(Hildebrand, Regan). (Entered: 10/23/2011) |
| 10/24/2011 | <u>26</u> | ANSWER to Amended Complaint, <u>23</u> filed by Defendant Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke.(Hildebrand, Regan) (Entered: 10/24/2011) |
| 10/24/2011 | <u>27</u> | OPPOSITION to MOTION to Certify Class <u>24</u> filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Hildebrand, Regan) (Entered: 10/24/2011) |
| 10/26/2011 | <u>28</u> | ORDER RE DEFENDANTS' UNOPPOSED MOTION TO RESET THE HEARING DATE by Judge George H Wu: It is Hereby Ordered that Defendants Unopposed Motion to Reset theHearing Date is hereby GRANTED. The hearing date is rescheduled to Monday,November 21, 2011, at 8:30 AM. <u>24 25</u> (pj) (Entered: 10/28/2011) |
| 11/09/2011 | <u>29</u> | MINUTE ORDER IN CHAMBERS by Judge George H Wu: Plaintiff's MOTION to Certify Class <u>24</u> is continued to 12/15/2011 at 08:30 AM before Judge George H Wu. Reply will be due by no later than November 21, 2011. (jag) (Entered: 11/09/2011) |
| 11/21/2011 | <u>30</u> | REPLY support MOTION to Certify Class <u>24</u> filed by Plaintiffs Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo, Francis Raymond P Dayo, Amada Espinoza, Wblespher Espinoza. (Attachments: # <u>1</u> Declaration)(Sturman, David) (Entered: 11/21/2011) |
| 12/15/2011 | <u>31</u> | MINUTES OF Plaintiffs' Motion for Class Certification filed 10/4/2011: The Court's Tentative Ruling is circulated and attached hereto. Court hears argument. Motion Hearing held before Judge George H Wu: Plaintiffs' Motion for Class Certification is continued to 3/12/2012 at 08:30 AM before Judge George H Wu. Joint Report is due by Noon on March 8, 2012; Discovery is stayed until March 12, 2012. Court Reporter: Pat Cuneo. (pj) (Entered: 12/21/2011) |
| 03/06/2012 | <u>32</u> | STATUS REPORT filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Attachments: # <u>1</u> Proposed Order)(Hildebrand, Regan) (Entered: 03/06/2012) |
| 03/07/2012 | <u>33</u> | ORDER by Judge George H Wu: Having considered the parties' filings, the Court hereby GRANTS their request for a thirty-one (31) day continuance of the instant matter. The instant matter is continued until April 12, 2012, at 8:30 AM before Judge George H. Wu. A joint status report is due by noon on April 9, 2012. Discovery is stayed until April 12, 2012. (ir) (Entered: 03/08/2012) |
| 04/09/2012 | <u>34</u> | STATUS REPORT filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Hildebrand, Regan) (Entered: 04/09/2012) |
| 04/12/2012 | <u>35</u> | MINUTES: PLAINTIFFS' MOTION FOR CLASS CERTIFICATION (filed 10/04/11): Parties advise that settlement negotiations are ongoing Plaintiffs Motion for Class Certification <u>24</u> is continued to May 31, 2012 at 8:30 a.m. Parties may appeartelephonically provided that notice is given to the clerk by May 29, 2012 by Judge George H Wu Court Reporter: Pat Cuneo. (ir) (Entered: 04/13/2012) |
| 05/31/2012 | <u>36</u> | MINUTES OF Motion Hearing <u>24</u> held before Judge George H Wu. Parties advise that settlement negotiations are ongoing. Plaintiffs Motion for Class Certification is continued to June 28, 2012 at 8:30 a.m. The parties are advised that the motion will be vacated and no appearance will be required provided that a Stipulation to |

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| | | Dismiss, with a proposed order, is filed by noon on June 26, 2012. Parties will file a one-page status report, by June 26, 2012, in the event the settlement is not finalized. Court Reporter: Wil Wilcox. (kti) (Entered: 06/01/2012) |
| 06/26/2012 | <u>37</u> | STATUS REPORT <i>Regarding Settlement</i> filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Hildebrand, Regan) (Entered: 06/26/2012) |
| 06/28/2012 | <u>38</u> | MINUTES OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION <u>24</u> before Judge George H Wu: Settlement is reached. The joint motion for preliminary approval will be filed by July 30, 2012 with the hearing set for August 9, 2012 at 8:30 a.m. Plaintiffs motion for class certification is vacated and taken off-calendar. Court Reporter: Pat Cuneo. (jre) (Entered: 06/29/2012) |
| 07/26/2012 | <u>39</u> | NOTICE OF MOTION AND MOTION for Extension of Time to File Parties' Settlement Agreement By Two Days filed by Defendants Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Attachments: # <u>1</u> Supplement)(Hildebrand, Regan) (Entered: 07/26/2012) |
| 07/27/2012 | <u>40</u> | ORDER RE DEFENDANTS' EX PARTE MOTION TO EXTEND TIME TO FILE THE PARTIES SETTLEMENT AGREEMENT by Judge George H Wu: It is Hereby Ordered that Defendants motion for a two (2) day extension to file the parties settlement agreement is hereby GRANTED. The parties will file their settlement agreement by August 1, 2012. <u>39</u> (pj) (Entered: 07/27/2012) |
| 08/01/2012 | <u>41</u> | NOTICE of Settlement filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Hildebrand, Regan) (Entered: 08/01/2012) |
| 08/01/2012 | <u>42</u> | APPLICATION for Settlement Approval of Tentative Class Action filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. Application set for hearing on 8/9/2012 at 08:30 AM before Judge George H Wu. (Hildebrand, Regan) (Entered: 08/01/2012) |
| 08/09/2012 | <u>43</u> | MINUTES OF APPLICATION FOR SETTLEMENT APPROVAL <u>42</u> held before Judge George H Wu.; Based on the Tentative circulated and attached hereto, and for reasons stated on the record, the above entitled action is dismissed pursuant to the settlement as of today's date. (Made JS-6. Case Terminated.) Court Reporter: Anne Kielwasser. (pj) (Entered: 08/13/2012) |
| 04/26/2013 | <u>44</u> | NOTICE OF MOTION AND MOTION to Enforce Settlement Agreement filed by Plaintiff Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo, Francis Raymond P Dayo, Amada Espinoza, Wblespher Espinoza. Motion set for hearing on 5/23/2013 at 08:30 AM before Judge George H. Wu. (Attachments: # <u>1</u> Declaration Declaration of David Sturman, # <u>2</u> Proposed Order Proposed Order)(Sturman, David) (Entered: 04/26/2013) |
| 05/09/2013 | <u>45</u> | REPLY In Opposition MOTION to Enforce Settlement Agreement <u>44</u> filed by Defendants Robert M. Cowan, Executive Office of Immigration Review, F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. (Hildebrand, Regan) (Entered: 05/09/2013) |
| 05/15/2013 | <u>46</u> | NOTICE OF MOTION AND MOTION for Leave of Regan Hildebrand to Appear for Telephonic filed by Defendant F. Gerald Heinauer, Alejandro Mayorkas, Janet Napolitano, Donald Neufeld, Juan P Osuna, David Roarke. Motion set for hearing on 5/23/2013 at 08:30 AM before Judge George H. Wu. (Hildebrand, Regan) (Entered: 05/15/2013) |
| 05/20/2013 | <u>47</u> | NOTICE OF MOTION AND MOTION to Withdraw MOTION to Enforce Settlement Agreement <u>44</u> filed by Plaintiff Jane Bullecer, Don Cajucom, Ruby Conda, Althea Pobre Dayo, Francis Raymond P Dayo, Amada Espinoza, Wblespher Espinoza. Motion set for hearing on 5/23/2013 at 08:30 AM before Judge George H. Wu. (Sturman, David) (Entered: 05/20/2013) |