

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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HAMED SUFYAN OTHMAN)		
ALMAQRAMI, <i>et al.</i> ,)		
)		
Plaintiffs,)		
)		
v.)	Civil Action No. 1:17-cv-01533-TSC	
)		
REX W. TILLERSON, in his official)		
capacity as Secretary of State, <i>et al.</i> ,)		
)		
Defendants.)		
_____)	

DEFENDANTS’ RESPONSE TO PLAINTIFFS’ STATUS UPDATE

Defendants, by and through undersigned counsel, respectfully submit this Response to Plaintiffs’ Status Update (ECF No. 60) (hereinafter, “Plaintiffs’ Status Update” or “Pls.’ Status Update”). Contrary to Plaintiffs’ suggestion, the Ninth Circuit’s decision in *Hawaii v. Trump*, — F.3d —, 2017 WL 6554184 (9th Cir. Dec. 22, 2017) (per curiam), does not support denial of Defendants’ motion to dismiss.

First, the Ninth Circuit’s decision has no relevance to the fact that Plaintiffs’ alleged injury is not redressable by this Court, given that the fiscal year has ended, and that their claims are therefore moot. *See Zixiang Li v. Kerry*, 710 F. 3d 995, 1002 (9th Cir. 2013) (noting how “[t]here is no statute or regulation authorizing [the State Department] to take a visa number from one year and allocate it to another year” and specifically discussing the diversity-visa lottery).

Second, because the Plaintiffs’ amended complaint (ECF No. 46) does not challenge the proclamation at issue in *Hawaii*, that decision is not directly applicable here.

Finally, to the extent that this Court concludes the Ninth Circuit's decision in *Hawai'i* may be relevant because that case involves similar legal issues, the Ninth Circuit's decision nevertheless does not support denial of Defendants' pending motion to dismiss (ECF No. 53). Indeed, the Supreme Court granted a stay of the district court's order enjoining the enforcement of the proclamation pending potential Supreme Court review, *Trump v. Hawaii*, No. 17A550, 2017 WL 5987406 (Dec. 4, 2017), which suggests that the Government established a likelihood of success on the merits of those legal issues. At most, however, if this Court is of the view that the Supreme Court's potential review in *Hawaii* could be relevant, this Court should stay its resolution of Defendants' motion to dismiss until after the Supreme Court has decided whether to grant the Government's petition for certiorari (filed January 5, 2018) and, if granted, pending its ultimate disposition.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

CATHERINE H. DORSEY
Counsel to the Assistant Attorney General

WILLIAM C. PEACHEY
Director

GISELA A. WESTWATER
Assistant Director

STEVEN A. PLATT
Trial Attorney

By: /s/ Joshua S. Press
JOSHUA S. PRESS
Trial Attorney
United States Department of Justice
Civil Division
Office of Immigration Litigation
District Court Section

P.O. Box 868, Ben Franklin Station
Washington, DC 20044
Phone: (202) 305-0106
e-Mail: joshua.press@usdoj.gov

Dated: January 12, 2018

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2018, I electronically filed this document with the Clerk of the Court by using the CM/ECF system, which will provide electronic notice and an electronic link to this document to all attorneys of record.

By: /s/ Joshua S. Press
JOSHUA S. PRESS
Trial Attorney