

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

KURIAN DAVID, ET AL.

CIVIL ACTION

VERSUS NO:

08-1220

SIGNAL INTERNATIONAL, LLC,
ET AL.

SECTION: "A" (3)

ORDER

Before the Court is a **Motion Objecting to Magistrate's November 5, 2010, Order Concerning Discovery of T-Visa Applications (Rec. Doc. 941)** filed by defendant Signal International, LLC. Plaintiffs, Kurian David, et al., oppose the motion. The motion, set for hearing on December 8, 2010, is before the Court on the briefs without oral argument.

Plaintiffs are citizens of India who secured visas to work in the United States for defendant Signal International, LLC in the aftermath of Hurricane Katrina. Plaintiffs claim that they were subjected to forced labor as welders, pipefitters, and other marine fabrication workers at Signal operations in Pascagoula, Mississippi, and Orange, Texas. Plaintiffs assert class action claims against Defendants arising from violations of their rights under the Victims of Trafficking and Violence Protection Act, the Racketeer Influenced and Corrupt Organizations Act ("RICO"), the Civil Rights Act, and a host of other statutes. Plaintiffs'

motion for class certification will be submitted for hearing early this spring.

The instant motion brings before the Court the issue of whether Signal is entitled to Plaintiffs' T- & U-visa applications.¹ On June 2, 2009 and again on February 26, 2010, this Court upheld Magistrate Judge Knowles' rulings with respect to whether Defendants would be able to probe into certain aspects of Plaintiffs' current immigration status. (Rec. Docs. 476 & 650). Subsequently, Magistrate Judge Knowles granted in part Signal's motion to compel production of T-visa applications ordering that Plaintiffs need not produce the T- and U-visa applications themselves but would instead produce the sworn statements attached to the applications, after redaction. (Rec. Doc. 854). These sworn statements were made by Plaintiffs to the USCIS² in support of their T-visa applications with respect to human trafficking.

¹ T- and U-visas are a form of relief reserved for allegedly battered immigrants. The T-visa is designed specifically for those who have been subjected to sex trafficking or other severe forms of trafficking in persons (e.g., involuntary servitude, peonage, debt bondage, or slavery). European Connections & Tours, Inc. v. Gonzales, 480 F. Supp. 2d 1355, 1365 (N.D. Ga. 2007). The U-visa permits certain noncitizen crime victims who have suffered substantial mental or physical abuse as a result of the crime to be in the United States. Id.

² United States Citizenship and Immigration Service.

Signal filed a motion to reconsider based on Rule 59(e) (Rec. Doc. 863) and on November 5, 2010, Judge Knowles denied that motion (Rec. Doc. 912). Judge Knowles concluded that the sworn redacted statements were sufficient to provide Signal with the information that Plaintiffs provided the government with respect to their alleged detention at Signal's living quarters. (Rec. Doc. 912 at 13). Signal now files its objection with this Court contending that due process requires that it receive the complete T-visa and U-visa applications as opposed to the redacted affidavits.

The Court denies Signal's motion because Signal's most persuasive arguments do not pertain to how the applications impact the issues that the Court will consider for purposes of class certification. But assuming that a class is certified, Plaintiffs might very well be required to produce the complete applications in conjunction with the merits portion of the case. The Court cannot envision a greater waste of the parties' and the Court's resources than if the plaintiffs upon whose testimony a class is certified elect to withdraw from the case in lieu of producing their applications. On the other hand, certification on the trafficking claims is by no means a foregone conclusion and if the Court declines to certify a class based on the showing made without the applications then this issue will be moot.

Accordingly, and for the foregoing reasons;

IT IS ORDERED that the **Motion Objecting to Magistrate's November 5, 2010, Order Concerning Discovery of T-Visa Applications (Rec. Doc. 941)** filed by defendant Signal International, LLC is **DENIED**.

January 28, 2011



JAY C. ZAINY
UNITED STATES DISTRICT JUDGE