

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARTA ZAMBRANO; MARGARITA
RODRIGUEZ; GRACIELA LOPEZ;
ANDREA RUIZ; MARTHA OZUNA;

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subject-matter jurisdiction, Plaintiffs moved for fees under the EAJA. The district court denied this motion, again basing that decision on lack of subject matter jurisdiction. We affirm.

I. BACKGROUND

This case began as a class action challenge to regulations applied by the Immigration and Naturalization Service

Supreme Court's opinion in *Reno v. Catholic Soc. Servs., Inc.*

On September 30, 1996, Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA") which directly impacted

IIRIRA, which amends IRCA and purports to divest districts of

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II. STANDARD OF REVIEW

The standard of review governing the denial of attorney's fees is abuse of discretion.

62 F.3d at 292-93 (footnote omitted).

Finally, in Latch v. United States, 842 F.2d 1031 (9th Cir.

2. Reconsideration of Jurisdiction.

Plaintiffs also raise a slightly different argument. Plaintiffs

Plaintiffs argue that the LIFE Act has retroactively bestowed jurisdiction on the district court for purposes of awarding fees under the EAJA. In support of this position, Plaintiffs point to the following language from the LIFE Act:

Plaintiffs) was meant to remove a jurisdictional obstacle to litigation that could ensue over applications pursuant to the newly amended amnesty provisions, and not that it was-0.1299 Tc2 71 Tc 0.2 71 Tw (ntmended to rtroaictvewly)

true that Congress may waive the effect of collateral estoppel in suits against the government. See United States v. Sioux Nation, 448 U.S. 371, 397 (1980) ("Congress has the power to waive the res judicata effect of a prior judgment entered in the Government's favor on a claim against the United States."). However, such Congressional acts have only been upheld in the context of Congress providing a new forum for litigants to pursue their old claims. The Supreme Court enunciated this principle in Sioux Nation, Id. In that case, the Court was dealing with the constitutionality of a special jurisdictional statute which provided for de novo review of the merits of a decision of the Indian Claims Commission that an 1877 enactment effected a taking of the Black Hill w7mof th. Sioux

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of Claims' new review of the merits. That court was left completely free to reaffirm its 1942 judgment that the Black Hills claim was not cognizable under the Fifth Amendment, if upon its review of the facts and law, such a decision was warranted.

Id. at 406-407.