

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MIRSAD HAJRO, JAMES R. MAYOCK,)	Case No.: 08-1350-PSG
)	
Plaintiffs,)	ORDER OF PERMANENT
)	INJUNCTION
v.)	
)	
UNITED STATES CITIZENSHIP AND)	(Re: Docket No. 77)
IMMIGRATION SERVICES; T. DIANE)	
CEJKA, Director, USCIS National Records)	
Center; ROSEMARY MELVILLE, USCIS)	
District Director of San Francisco; JANET)	
NAPOLITANO, Secretary, Department of)	
Homeland Security; ERIC HOLDER, Attorney)	
General, Department of Justice,)	
)	
Defendants.)	

Having determined Defendant United States Citizenship and Immigration Services (“USCIS”) to be in violation of certain provisions of the Freedom of Information Act (“FOIA”) for the reasons set forth in the court’s order of October 13, 2011 on cross-motions for summary judgment,¹ including FOIA’s timing provisions as set forth in 5 U.S.C. § 552(a)(6), the court hereby orders that:

¹ See Docket No. 77 (Amended Order Granting In Part and Denying In Part Motions for Summary Judgment) (“summary judgment order”).


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- 1) USCIS shall comply with the requirements set forth in 5 U.S.C. § 552(a)(6)(A) and (B).
 - a) USCIS shall provide a copy of a requestor’s alien registration file within the twenty-business-day time limit mandated by 5 U.S.C. § 552(a)(6)(A)(i).
 - b) USCIS shall make a determination with respect to any FOIA appeal within the twenty-business-day time limit mandated by 5 U.S.C. § 552(a)(6)(A)(ii).
 - c) USCIS shall issue the written notice mandated by 5 U.S.C. § 552(a)(6)(B) to a requestor if an extension of an additional ten business days is needed due to “unusual circumstances.” This written notice must set forth the unusual circumstances, as defined in 5 U.S.C. § 552(a)(6)(B)(iii) for such extension and setting a new response date. The final response date shall be within 30 business days of the original request date.
- 2) USCIS shall follow, implement, and execute the terms of the 1992 Mayock Settlement Agreement.
- 3) This injunction takes effect immediately, without prejudice to the government’s right to pursue a stay pending appeal.
- 4) USCIS shall issue a written notice to the USCIS National Records Center describing the terms of this permanent injunction and instructing the National Records Center regarding compliance with the terms of this injunction.

IT IS SO ORDERED.

Dated: May 4, 2012



 PAUL S. GREWAL
 United States Magistrate Judge

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MIRSAD HAJRO, JAMES R. MAYOCK,)
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) Plaintiffs,)
)
) v.)
)
) UNITED STATES CITIZENSHIP AND)
) IMMIGRATION SERVICES; T. DIANE)
) CEJKA, Director, USCIS National Records)
) Center; ROSEMARY MELVILLE, USCIS)
) District Director of San Francisco; JANET)
) NAPOLITANO, Secretary, Department of)
) Homeland Security; ERIC HOLDER, Attorney)
) General, Department of Justice,)
)
) Defendants.)

Case No.: 08-1350-PSG
ORDER ENTERING JUDGMENT

On October 13, 2011, the court issued an order granting-in-part and denying-in-part cross-motions for summary judgment brought by Plaintiffs Mirsad Hajro (“Hajro”) and James R. Mayock (“Mayock”) and by Defendant United States Citizenship and Immigration Services (“USCIS”), together with Defendants Eric Holder (“Holder”), Janet Napolitano (“Napolitano”), T. Diane Cejka (“Cejka”), and Rosemary Melville (“Melville”).¹ The summary judgment order

¹ See Docket No. 77 (Amended Order Granting In Part and Denying In Part Motions for Summary Judgment) (“summary judgment order”).

1 disposed of all claims in the case² and ordered the parties to submit either a stipulated form of
2 injunction, or their respective forms of injunction, with respect to Plaintiffs' claims for injunctive
3 relief. Before the parties submitted any proposed forms of injunction, Defendants filed a notice of
4 appeal to the United States Court of Appeals for the Ninth Circuit "to the extent that the district
5 court granted summary judgment to plaintiffs and failed to grant summary judgment to
6 defendants."³

7
8 In light of the summary judgment order, the Clerk of the Court is directed to close this
9 matter and enter judgment pursuant to Rule 58 of the Fed. R. Civ. P. as follows.

10 Judgment shall be entered in favor of Plaintiffs as to the first, second, third, fourth, fifth,
11 seventh, and ninth causes of action. Judgment further shall be entered in favor of Plaintiffs as to the
12 sixth cause of action with respect to Defendants' withholding of information under FOIA and the
13 1992 Settlement Agreement.

14 Judgment also shall be entered in favor of Defendants as to the sixth cause of action with
15 respect to Plaintiffs' arbitrary and capricious claim under the APA. Judgment further shall be
16 entered in favor of Defendants as to the eighth cause of action, and to Defendant Holder on all
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19 _____
20 ² Plaintiffs' First Amended Complaint ("FAC") set forth nine causes of action and sought
21 declaratory and injunctive relief, as well as reasonable attorney's fees and costs. In the summary
22 judgment order, the court granted summary judgment in Plaintiffs' favor as to the first, second,
23 third, fourth, fifth, seventh, and ninth causes of action. The court also granted partial summary
24 judgment in Plaintiff's favor as to the sixth cause of action with respect to Defendants' withholding
25 of information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(a)(3) and the 1992
26 Settlement Agreement. The court granted partial summary judgment in favor of Defendants as to
27 the sixth cause of action with respect to Plaintiffs' claim that withholding of the non-exempt
28 information was arbitrary and capricious under the Administrative Procedure Act, 5 U.S.C. § 551
et seq. The court also granted summary judgment in favor of Defendants as to the eighth cause of
action, as to Defendant Holder on all causes of action, and as to Defendants Napolitano, Cejka, and
Melville on third, fourth, fifth, and sixth causes of action under FOIA.

³ See Docket No. 78 (Notice of Appeal).

1 causes of action, and to Defendants Napolitano, Cejka, and Melville on the third, fourth, fifth, and
2 sixth causes of action under FOIA.

3 Judgment also shall include the order of injunction against USCIS that has issued
4 concurrently with this order.

5 This Judgment shall constitute a final judgment in this case. In light of the pending appeal
6 by USCIS of the court’s summary judgment order, the court will retain jurisdiction only to consider
7 claims regarding compliance with this order and any requests related to attorney fee awards and
8 costs of suit.⁴

9
10 **IT IS SO ORDERED.**

11 Dated: May 4, 2012

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13 _____
14 PAUL S. GREWAL
15 United States Magistrate Judge

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27 ⁴ See *In re Padilla*, 222 F.3d 1184, 1190 (9th Cir. 2000) (“Absent a stay or supersedeas, the trial
28 court retains jurisdiction to implement or enforce the judgment or order but may not alter or expand
upon the judgment.”) (citing *Bennett v. Gemmill*, 557 F.2d 179, 190 (9th Cir. 1977)).