

1 Alexa M. Lawson-Remer (SBN 268855)
lawsonr@sullcrom.com
2 SULLIVAN & CROMWELL LLP
1888 Century Park East, Suite 2100
3 Los Angeles, California 90067-1725
Telephone: (310) 712-6600
4 Facsimile: (310) 712-8800

5 Theodore Edelman (*pro hac vice*)
edlemant@sullcrom.com
6 Jessica Klein (*pro hac vice*)
kleinj@sullcrom.com
7 Lauren M. Goldsmith (SBN 293269)
goldsmithl@sullcrom.com
8 SULLIVAN & CROMWELL LLP
125 Broad Street
9 New York, New York 10004-2498
Telephone: (212) 558-4000
10 Facsimile: (212) 558-3588

11 Aaron C. Morris (*pro hac vice*)
amorris@immigrationequality.org
12 IMMIGRATION EQUALITY
40 Exchange Place, Suite 1300
13 New York, New York 10005-2744
Telephone: (212) 714-2904
14

15 *Attorneys for Plaintiffs*

16
17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION (LOS ANGELES)**
20

21 ANDREW MASON DVASH-)
BANKS AND E.J. D.-B.,)
22)
Plaintiffs,)
23)
v.)
24)
THE UNITED STATES)
25 DEPARTMENT OF STATE,)
and THE HONORABLE)
26 MICHAEL R. POMPEO,)
Secretary of State,)
27)
Defendants.)
28

Case No. 2:18-cv-00523-JFW-(JCx)

**EXCERPTS FROM THE
DEPOSITION OF LARILYN
REFFETT IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Judge: Hon. John F. Walter
Hearing Date: February 4, 2019
Courtroom: 7A

1 Pursuant to Part 4(b) of the Court's Scheduling and Case Management
2 Order (DKT 52), entered on August 21, 2018, attached hereto are excerpts from
3 the deposition of Larilyn Reffett submitted in support of Plaintiffs' Opposition to
4 Defendants' Motion for Partial Summary Judgment.

5 Dated: January 14, 2019 Respectfully submitted,

6 By: /s/ Alexa M. Lawson-Remer
7 Alexa M. Lawson-Remer (SBN 268855)
8 lawsonr@sullcrom.com
9 SULLIVAN & CROMWELL LLP
10 1888 Century Park East, Suite 2100
11 Los Angeles, California 90067-1725
12 Telephone: (310) 712-6600
13 Facsimile: (310) 712-8800

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22 New York, New York 10004-2498
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24 Facsimile: (212) 558-3588

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Attorneys for Plaintiffs

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7 Q. So is it correct then that the
8 policies of the United States State Department are
9 one and the same with the policies of the Toronto
10 Consulate in the adjudication of applications for
11 U.S. passports?

12 A. The adjudications here in Toronto
13 are done solely based on the guidance and the
14 references that we are provided by the Department
15 of State.

16 Q. Is there any Toronto
17 Consulate-specific guidance concerning
18 adjudications of U.S. passports?

19 A. No.

20 Q. What about Canada-specific?

21 A. No.

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14 Q. And from the period of when the
15 applications were initiated through March 2nd,
16 2017, when this letter was dated, were you
17 personally involved at all in these applications or
18 their adjudication?

19 A. The day of the interview, Frankie
20 asked me about -- she told me that she was going to
21 request DNA testing. She asked me how she went
22 about doing that. I explained to her that she just
23 needs to ask a local staff to draft the letter.
24 There is standard language that explains how to
25 obtain a DNA test that is -- that meets the

1 requirements of the Department of State.
2 She asked for that letter and then
3 presented it to the family, so I was aware at that
4 point that she was requesting the DNA evidence. At
5 that point, a case will go into pending status.
6 Cases generally are allowed to remain in that
7 status for up to 90 days without any further
8 action. At the 90-day mark, we will review again
9 to see whether or not we have received the
10 information we have requested and try and proceed

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11 with the case.

12 Q. Ms. Day spoke to you on the date
13 when the Dvash-Banks family came in about
14 requesting DNA testing; is that correct?

15 A. Yes, she asked me to verify how
16 the procedure works, what documentation needs to
17 happen, because we aren't in charge of the DNA
18 program as the adjudicating officers, so she wanted
19 to verify that she was getting the right letter,
20 giving them the right information about how to
21 proceed with that testing.

22 Q. Did Ms. Day share with you the
23 facts surrounding these applications for E [REDACTED]?

24 A. She told me that she had a case
25 that involved artificial reproductive technology.

1 She said that it was not clear from the
2 documentation who was biologically related to who
3 in the case and she was requesting the DNA in order
4 to establish that.

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7 Q. I would like to focus on your
8 conversations with Ms. Day about these applications
9 for the next several questions.

10 When Ms. Day first spoke with you about
11 E [REDACTED]'s applications, had she already decided to
12 give them pending status?

13 A. When she came to me, she explained
14 to me that the documentation did not establish the
15 biological relationship, so she was going to
16 request the DNA testing and she asked me about the
17 proper procedure for doing that.

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14 Q. Is it your understanding that when
15 Ms. Day signed this letter on March 2nd, 2017, the
16 adjudication was final?

17 A. Yes, that is my understanding.

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9 Q. So sitting here today, what is
10 your understanding of why Frankie Terri Day denied
11 E█████'s applications for a U.S. passport and
12 Consular Report of Birth Abroad?

13 A. My understanding is that the
14 applicants did not establish the biological
15 relationship between the American citizen parent
16 and the child, which is required by the Immigration
17 and Nationality Act.

18 Q. And are you aware of any other
19 reason why E█████'s applications were denied?

20 A. No.

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6 Q. Does Ms. Day's letter dated March
7 2nd, 2017, reflect a final adjudication of E█████'s
8 applications for a U.S. passport and Consular
9 Report of Birth Abroad?

10 A. As far as the applications that
11 were submitted here in Toronto, that letter
12 absolutely is a final determination. In the
13 second-to-last paragraph:

14 "[...] therefore the
15 applications are denied."

16 That is the termination of that case
17 from that point forward.

18 Q. So how would you describe the
19 status of that case for the Toronto Consulate
20 today?

21 A. The case was denied and it is
22 closed.

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4 Q. Are you aware of any changes to
5 the biological relationship to a U.S. citizen
6 parent requirement that have changed during your
7 tenure at the Toronto Consulate?

8 A. I don't know the exact dates of
9 changes as they have come and gone. I do -- we
10 have touched on this issue earlier, but we have
11 talked about the fact that the biological

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12 relationship does now include a gestational mother
13 role, for example.
14 Being a gestational mother does in fact
15 meet the biological -- does in fact qualify as a
16 biological relationship. That has been a change,
17 but when it happened, I honestly don't know. It is
18 not something I keep track of.