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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 MARGARET
RAMSAY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Judge: Hon. John F. Walter
Hearing Date: February 4, 2019
Courtroom: 16

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 Margaret Ramsay submitted in support of Plaintiffs' Motion for
4 Partial Summary Judgment.

5 Dated: January 7, 2019

Respectfully submitted,

6
7 By: /s/ Alexa M. Lawson-Remer
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Margaret Ramsay

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Pages 17-18

22 Q. And are the Toronto Consulate's
23 policies for adjudicating applications for
24 passports and Consular Reports of Birth Abroad the
25 same as the State Department's policies?

1 A. Yes.

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10 Q. Are you aware of E [REDACTED]
11 D [REDACTED]-E [REDACTED]'s application for a passport and a
12 Consular Report of Birth Abroad?

13 A. Yes.

14 Q. Who was the officer assigned to
15 his case, if you know?

16 A. It was Frankie Day.

17 Q. And were you involved in any way
18 in the process of reviewing E [REDACTED]'s applications?

19 A. Yes.

20 Q. Can you describe in what ways you
21 were involved in that process?

22 A. I assisted my colleague Frankie by
23 sending her relevant guidance from the Foreign
24 Affairs Manual.

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6 Q. And did you hear any questions
7 during the interview that were related in some way
8 to the fact that they were both men?

9 A. Yes, in terms of asking about how
10 the children were conceived and how the children
11 came to be born in Canada.

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20 Q. Do you remember anything else?

21 A. I think that Frankie asked the
22 question about who contributed genetic material to
23 conceive the children.

Pages 48-49

12 Q. Did you talk to Ms. Day while the
13 Dvash-Banks family was still at the consulate?

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14 A. Yes.

15 Q. And was that a separate
16 conversation from the one we were just discussing?

17 A. Yes, I believe so.

18 Q. And can you describe that
19 conversation?

20 A. I believe she told me that it
21 wasn't clear who the biological parents were and I
22 discussed with her that the DNA testing was an
23 option in these types of cases.

24 Q. So just to make sure that I'm
25 understanding, while the Dvash-Banks family was at

1 the consulate for their interview, you had a second
2 conversation with Ms. Day about how she should
3 proceed?

4 A. I offered some guidance to her as
5 to, you know, how the case could proceed, but
6 ultimately she made the decision herself.

7 Q. And what decision was that?

8 A. She made the decision to place the
9 case in a pending status, pending additional
10 information.

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1 Q. And did you ever discuss the
2 Dvash-Banks applications again with Ms. Day before
3 the final adjudication?

4 A. I think I discussed it with her
5 when the results of the DNA testing came back.

6 Q. And what did she say?

7 A. She told me that one child was the
8 biological child of the U.S. citizen and one was
9 not.

Page 60

5 Q. What, if any, was your role in Ms.
6 Day's decision to seek additional medical evidence
7 such as DNA testing?

8 A. I suggested it to her.

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15 Q. And is it your understanding that
16 under the State Department's policies and
17 procedures, Andrew and Elad Dvash-Banks are
18 considered to be a married couple?

19 MS. ZEIDNER MARCUS: Objection to form.

20 THE WITNESS: That is my understanding.

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7 Q. And are you aware that the State
8 Department changed its policy to treat gestational
9 mothers who are the legal parent of a child the
10 same as genetic mothers for purposes of citizenship
11 and immigration benefits?

12 A. Yes.

Page 103

7 Q. Looking at this document, who are
8 E█████ D█████-B█████'s legal parents under State
9 Department policy and procedure?

10 A. It would be the people listed on
11 the child's birth certificate, so Andrew and Elad.

Pages 104-105

19 Q. Is this document entitled
20 "Statement of Live Birth"?

21 A. Yes.

22 Q. And according to this document,
23 who are E█████ D█████-B█████'s parents?

24 A. Andrew Mason Dvash-Banks and Elad
25 Dvash-Banks.

1 Q. And when you adjudicate CRBA
2 applications using a Statement of Live Birth in
3 Ontario, do you look at those fields to determine
4 who the child's parents are?

5 A. Yes.

6 Q. Under the State Department's
7 policies and procedures, as you understand them, is
8 this document sufficient proof of E█████'s
9 parentage?

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10 MS. ZEIDNER MARCUS: Objection to form.
11 THE WITNESS: It shows who the legal
12 parents are.

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2 Q. And under the State Department's
3 policies and procedures, is this document
4 sufficient proof of Andrew's and Elad's marriage?
5 MS. ZEIDNER MARCUS: Objection,
6 foundation, form.
7 THE WITNESS: Yes.

Pages 108-109

20 Q. In your practice adjudicating
21 applications, would an Ontario marriage licence
22 such as this one sufficiently demonstrate a valid
23 marriage?
24 A. Yes.
25 Q. And is it your understanding based
1 on this document that Andrew and Elad Dvash-Banks
2 are validly married?
3 A. Yes.

Pages 131-132

22 Q. Do you know whether Ms. Day
23 considered E█████ D█████-B█████ to be born in wedlock,
24 as that term is used in the FAM and the INA?
25 A. I think initially, as evidenced by
1 her case notes, she may have considered them in
2 wedlock because she saw a marriage certificate, but
3 I believe after reviewing the guidance and as
4 evidenced by the final denial letter, ultimately
5 applied 309 of the INA to the decision-making.

Pages 132-133

22 Q. Do you know whether she
23 communicated to the Dvash-Banks family on that day
24 whether there was a particular provision that she
25 was going to be applying in the case?

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1 A. I believe she may have told them
2 about the provisions of INA 309.

3 Q. What is that belief based on?

4 A. I think I heard her talk to them
5 about the requirements for it and the requirements
6 for a biological relationship as well.

Page 154

16 Q. Why did you think that in this
17 case the FAM guidance was clear?

18 A. Because the FAM guidance on
19 assisted reproductive technology cases is clear
20 with regards to a biological relationship
21 requirement, and once we had that information after
22 the DNA testing, it was relatively straightforward
23 to make the decision.

Pages 163-164

5 Q. Did Ms. Ramsay -- excuse me, Ms.
6 Ramsay, did Ms. Day ever discuss with you whether
7 to apply Section 301 or 309 of the INA in
8 adjudicating E■■■■'s applications?

9 A. I believe we discussed it as
10 appropriately looking at the case through the lens
11 of 309 due to the fact pattern of the case in terms
12 of artificial reproductive technology being used.

13 Q. And when did that discussion
14 occur?

15 A. The morning of the interview.

16 Q. And was this the first
17 conversation you had with Ms. Day concerning the
18 Dvash-Banks applications?

19 A. No, no.

20 Q. This was the second conversation
21 you had with her that day concerning the
22 Dvash-Banks family's applications?

23 A. I think after she had interviewed
24 them, I discussed with her the different FAM
25 guidance and how the case would be, because they

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1 had used a surrogate, and how we would apply 309 to
2 the case.

3 Q. So it is now your testimony that
4 you discussed with Ms. Day on the day that the
5 Dvash-Bankses appeared for their interview which
6 section of the INA applied to their application?

7 A. I believe that was part of our
8 discussion, yes.

9 Q. And did you advise Ms. Day on
10 which section of the INA to apply?

11 A. I think so, yes.

12 Q. And what did you advise her?

13 A. I told her that these types of
14 cases are considered under INA 309.