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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 TERRI
NATHINE FRANCES DAY 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 Terri Nathine Frances Day submitted in support of Plaintiffs'
4 Opposition to Defendants' Motion for Partial Summary Judgment.

5 Dated: January 14, 2019 Respectfully submitted,

6 By: /s/ Alexa M. Lawson-Remer
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Attorneys for Plaintiffs

Page 24

2 Q. Is it your understanding that the
3 policies that the Toronto consulate follows with
4 respect to how to adjudicate passport and CRBA
5 applications are the same policies that the State
6 Department follows?

7 A. According to my understanding, yes,
8 they are the same policies, as far as what I've
9 seen in the Foreign Affairs Manual, which is the
10 only thing I can attest to, really. And the
11 guidelines that have been given to me by Consular
12 Affairs, yes, they are the same.

Pages 29-30

17 Q. And what was your role in adjudicating
18 those applications?

19 A. My role was to determine if the
20 applicant had a claim to U.S. citizenship either
21 through their parent or their place of birth or
22 whatever reason they were -- you know, whatever
23 reason they were claiming was their purpose for
24 getting it -- acquiring U.S. citizenship. So that
25 was my -- my job was to determine if that was --

1 according to Foreign Affairs Manual and the
2 guidelines that we had, if that was -- if they were
3 entitled to that citizenship.

Page 47

12 Q. And I think before you referred to
13 there's a checklist you go through. Is that a
14 metaphorical checklist or is that a physical
15 checklist?

16 A. That is a metaphorical checklist. We
17 know based on the FAM what documents are required,
18 what things we need to know about the parent and
19 about the parents' relationship with the child. We
20 know that, but you're not going to go through the

Terri Nathine Frances Day

12/20/2018

21 FAM, you know, line by line. You're going to know
22 what it's asking you, and then you're going to --
23 you're going to say, "Okay, have I seen this?"
24 Yes. "Have I seen this?" No. Et cetera.

Page 59

2 Q. Did you ever consult any other
3 documents or guidance of any kind during the course
4 of your adjudication of U.S. passport and CRBA
5 applications?

6 A. I would say no.

7 Q. Did you ever consult the FAM?

8 A. Yes.

9 Q. Was there anything else that you ever
10 consulted?

11 A. I can't -- I can't say with 100 percent
12 certainty. I don't remember specifically, but in
13 my experience, the FAM is the -- is the guideline
14 that is followed. If there are changes and they
15 are communicated to us through our managers, be it
16 in NIV, IV or ACS.

Pages 80-81

18 Q. And when you talk about whether you had
19 a question as to the biological tie, was that a
20 subjective determination that you made during the
21 course of the interview, for example?

22 A. I would say no, because the -- from my
23 understanding, the biological connection is
24 required to transmit the citizenship. So if -- you
25 know, someone -- so that's not really -- you can't

1 really argue that point to say, well, maybe -- you
2 know, kind of make a judgment call. I think it's
3 very clear what this -- what the guidelines are.

4 So I would say that if the parent
5 indicated to me that -- which is normally, like I
6 said, how that would go about. If the parent
7 indicated to me that they had used assisted
8 reproductive technology, then we would go down that
9 line of questioning, if I thought that -- if I saw

Terri Nathine Frances Day

12/20/2018

10 that this was something that had, you know, had
11 happened.

Pages 172-173

5 Q. And can you turn, please, to the
6 document that is Bates-stamped 00070270-1764. And
7 I'll represent for the record that the title of the
8 document is "Statement of Live Birth."

9 A. 1764. Yes

10 Q. What is this document?

11 A. It seems to be a Statement of Live
12 Birth for E█████ J█████ D█████ -B█████.

13 Q. And have you seen this document before?

14 A. Yes, I have.

15 Q. And is this document E.J.'s Canadian
16 birth certificate?

17 A. It would seem to be, yes. A copy of
18 that.

19 Q. And in your review of this document
20 during the process of adjudicating E.J.'s
21 application, did you consider this document to be a
22 true and accurate copy of E.J.'s timely filed
23 Canadian birth certificate?

24 A. Yes.

25 Q. Did you consider this document to be

1 adequate proof that Andrew and Elad Dvash-Banks
2 were E.J.'s parents?

3 MS. MARCUS: Objection. Vague as to
4 the term "parents."

5 BY MS. GOLDSMITH:

6 Q. You can answer.

7 A. I need clarification on the term
8 "parents."

9 Q. Did you consider this document to be
10 adequate proof that Andrew and Elad Dvash-Banks are
11 E.J.'s legal parents?

Terri Nathine Frances Day

12/20/2018

12 A. I would say yes.

Pages 173-174

19 Q. What is this document?

20 A. It is an Ontario -- it seems to be a
21 copy of an Ontario court document that names Elad
22 and Andrew Dvash-Banks as the parents of E [REDACTED]
23 J [REDACTED] D [REDACTED]-B [REDACTED].

24 Q. And have you seen this document before?

25 A. I have, yes.

1 Q. Did you consider this document to be
2 adequate proof that Andrew and Elad were E.J.'s
3 parents at the time of E.J.'s birth? And, again,
4 I'm referring to legal parents.

5 A. I would say yes.

Page 217

21 Q. You specifically remember looking at a
22 FAM provision during the time that you were
23 interviewing the Dvash-Banks family's adults?

24 A. Yes.