UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

ALLISON DAWN BLIXT and L. Z.-B., Plaintiffs, -against- THE UNITED STATES DEPARTMENT OF STATE and THE HONORABLE REX W. TILLERSON, Secretary of State, Defendants.[1]	Civ. No. 2:20-cv-02102-KM-JBC Hon. Kevin McNulty Oral Argument Requested Motion Date: June 7, 2021

REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Theodore Edelman (*pro hac vice*)
Jessica M. Klein (*pro hac vice*)
Lauren M. Goldsmith (*pro hac vice*)
Mark A. Makar
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: 212-558-4000

Aaron C. Morris (*pro hac vice*)
IMMIGRATION EQUALITY
40 Exchange Place, Suite 1300
New York, New York 10005
Telephone: 212-714-2904

Attorneys for Plaintiffs

[1] Antony J. Blinken was confirmed as United States Secretary of State on January 26, 2021; and, pursuant to Federal Rule of Civil Procedure 25(d), has been "automatically substituted" in his official capacity for his predecessor.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES
(*Continued*)

Page(s)

Statutes

TABLE OF AUTHORITIES
(*Continued*)

Page(s)

Other Authorities

Plaintiffs, Allison and her son L. Z.-B., by and through his court-appointed guardian *ad litem*, Stefania, respectfully submit the following reply memorandum in support of Plaintiffs' motion for partial summary judgment (ECF No. 66 ("Motion" or "Mot.")) in the Action.[2]

I. PRELIMINARY STATEMENT

Defendants agree that the facts material to the resolution of the Motion and of Defendants' parallel cross-motion for summary judgment ("Cross-Motion") are undisputed, and that Plaintiffs' Section 1503(a) claim is ripe for adjudication. Defendants also do not dispute that every court that has considered the question at issue has sided with Plaintiffs' view that Section 301 does not include a biological relationship requirement. Defendants' *Opposition to Plaintiffs' Motion for Partial Summary Judgment* (ECF No. 70 ("Opposition" or "Opp.")) nonetheless trots out the same unfounded arguments that those decisions have unanimously rejected and offers no reason why the result should be any different this time. The courts have uniformly held that the language, context and purpose of the INA make clear that Section 301 has no biological relationship requirement, and that Defendants' attempts to read one into the statute, or otherwise impose one through the FAM,

[2] Except as otherwise noted, capitalized terms used in this reply memorandum have the same definitions as set forth in Plaintiffs' *Memorandum of Points and Authorities in Support of Motion for Partial Summary Judgment Pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1* (ECF No. 66-1) ("Pl. Mem.").

violate fundamental principles of statutory interpretation and are not entitled to deference. Defendants' protestations that their interpretation and the FAM policy do not raise serious constitutional questions conflict with the clear holdings of two federal courts and seek improperly to accelerate resolution of Plaintiffs' Fifth Amendment claims, whose adjudication the parties and the Court have agreed to defer. Those issues can, and should, be avoided by interpreting Section 301 as containing no biological relationship requirement, a reading that Defendants concede is plausible.

For reasons discussed below, as well as those set forth in Plaintiffs' Motion and in Plaintiffs' opposition to the Cross-Motion ("Pl. Opp."), Plaintiffs respectfully request that the Court grant summary judgment for Plaintiffs on the Section 1503(a) claim and declare L. Z.-B. to be a U.S. citizen at birth.

II. ARGUMENT

A. The Opposition Ignores the Clear Language, Context, and Uniform Judicial Construction of Section 301.

Defendants' Opposition rehashes the same tired and meritless arguments that the courts unanimously have rejected in eight prior decisions: that the words "born . . . of" in Section 301(g) impliedly import into that section a biological relationship requirement not expressly stated there; that the term "parents" in Section 301(g) includes legal parents, but is irrelevant to the question at issue; and that the inclusion of a "blood relationship" requirement in Section 309, but not in

Section 301(g), does not reflect the absence of such a requirement in Section 301(g). As Plaintiffs' prior submissions regarding the pending cross-motions demonstrate, there is no reason for a different result here.[3]

Given this unbroken string of rejections, Defendants try a new but similarly baseless tack, asserting that "Plaintiffs fail to provide any relevant definitions of statutory text in support of their reading of Section [301]." (Opp. at 3.) This argument is backwards. Under Third Circuit law, "the starting point" for statutory interpretation "is the language of the statute itself," *United States* v. *Gollapudi*, 130 F.3d 66, 70 (3d Cir. 1997), and "[w]here the statutory language is plain and unambiguous," courts "rarely need to inquire into the meaning of the statute beyond examining its wording," *B & G Const. Co.* v. *Dir., Off. of Workers' Comp. Programs*, 662 F.3d 233, 248 (3d Cir. 2011). As Plaintiffs' Motion demonstrates, Plaintiffs' interpretation relies on the plain language of Section 301, which does not include any language imposing, expressly or otherwise, a biological relationship requirement. (*See* Pl. Mem. at 17–18.)

Defendants' contention that Plaintiffs have not "refer[red] to any language in Section [301] itself that expressly supports their reading" (Opp. at 3) is

[3] Indeed, on January 15, 2021, the Ninth Circuit denied Defendants' petition for rehearing *en banc* in *E.J.D.-B.* v. *U.S. Dep't of State*, noting the absence of any support by the court's judges for the petition. (Order, Case No. 19-55517 (9th Cir. Jan. 15, 2021), ECF No. 60.)

similarly nonsensical, as the thrust of Plaintiffs' argument is that the absence of a clear biological relationship requirement means just that: There is no such requirement. As courts repeatedly have concluded, Section 301 "does not limit the provision's application to those children who have biological relationships with both of their married parents." *Kiviti* v. *Pompeo*, 467 F. Supp. 3d 293, 306 (D. Md.), *appeal dismissed without opposition*, 2020 WL 8509833 (4th Cir. Oct. 26, 2020); *Sabra* v. *Pompeo*, 453 F. Supp. 3d 291, 320 (D.D.C. 2020) ("[T]he plain language of [Section 301] does not require proof of a 'biological relationship . . . .'"); *Dvash-Banks* v. *Pompeo*, 2019 WL 911799, at *7 (C.D. Cal. Feb. 21, 2019) ("Nothing in Section 301 references a biological relationship requirement . . . ."), *aff'd*, 825 F. App'x 479 (9th Cir. 2020).

Defendants' Opposition similarly offers nothing new or persuasive to support their contention that the words "born" and "of" in Section 301(g) modify "parents" to impose an implicit biological relationship requirement. (Opp. at 4.) As Plaintiffs showed in their prior submissions, the courts have consistently rejected Defendants' argument, which conflicts with the fundamental principles of statutory interpretation that the words of a statute should be read to give effect to all terms "in their context and with a view to their place in the overall statutory scheme." *Util. Air Regul. Grp.* v. *EPA*, 573 U.S. 302, 320 (2014) (internal quotation marks omitted); *see also Kiviti*, 467 F. Supp. 3d at 308; *Mize* v. *Pompeo*, 482 F. Supp. 3d

1317, 1336–38 (N.D. Ga. 2020); *Dvash-Banks*, 2019 WL 911799, at *7; (Pl. Mem. at 24–26; Pl. Opp. at 10–14).

Defendants further depart from established principles of statutory interpretation in asserting that "Section [309]'s reference to a 'blood relationship' in no way implies that a biological relationship is not required" in Section 301. (Opp. at 5.) Defendants argue that Section 301 and Section 309 both included "implicit[]" biological relationship requirements when first enacted in 1952; that Congress made this requirement in Section 309 "more explicit" when it amended the statute in 1986; and that Congress did not amend, and thus preserved, the purported implicit requirement in Section 301. (Opp. at 6–8.) None of these contentions has merit.

First, Defendants' argument is circular, for it starts and ends with the point Defendants must prove: that in 1952, Congress impliedly imposed a biological relationship requirement by using the words "born . . . of parents" in Section 301. The courts, however, have uniformly rejected Defendants' position. (Pl. Mem. at 18–21; Pl. Opp. at 6–9.)[4]

[4] Defendants rely on "[a] committee report on the 1940 predecessor to the INA" as supposed evidence of "Congress's focus on biology," but concede that the section they cite concerns "adoptive children" (Opp. at 3 n.1) and, according to the report, "[i]llegitimate children." S. Rep. No. 2150, 76th Cong., 3d Sess., at 5 (1940). As Plaintiffs' Motion demonstrates, those relationships are fundamentally different from marital children for purposes of the INA. (Pl. Mem. at 30–31; Pl. Opp. at 12–14, 29.) Defendants also overstate the report's "focus on biology." The report's section regarding the provision of the prior statute most analogous to Section 301 manifests that Congress's actual concern was about the perpetual transmission of citizenship to foreign-born children who do not "have a real American background, or any interest except that of being protected by the United States Government while

Second, Defendants do not (and cannot) dispute that courts consistently have construed the differences between Section 301 and Section 309 as strongly supporting the conclusion that there is no biological relationship requirement in Section 301. *See Jaen* v. *Sessions*, 899 F.3d 182, 188–89 (2d Cir. 2018); *Scales* v. *INS*, 232 F.3d 1159, 1164 (9th Cir. 2000); *Kiviti*, 467 F. Supp. 3d at 309; *Dvash-Banks*, 2019 WL 911799, at *7.[5] Moreover, as Plaintiffs' prior submissions explain, these distinctions highlight the importance of marriage to the statutory scheme and confirm that the INA requires proof of a biological relationship only for non-marital children. (Pl. Mem. at 30–33; Pl. Opp. at 12–14.) Defendants' Opposition recognizes this difference in contending that "when a child is born outside a marriage, the child's parentage necessarily has to be 'established' through some process." (Opp. at 6.)

Third, as Defendants recognize, the "'negative implications raised by disparate provisions are strongest' when the provisions were 'considered simultaneously when the language raising the implication was inserted.'" (Opp. at 6 (quoting *Gross* v. *FBL Fin. Servs., Inc.*, 557 U.S. 167, 175 (2009).) Defendants offer no compelling explanation for why, if their reading of Section 301 is correct,

---

in foreign countries." S. Rep. No. 2150, at 4. In response to that concern, Congress imposed a more stringent residency requirement for U.S. citizen parents. *Id.*

[5] As Plaintiffs' Opposition has explained, Defendants' attempts to undermine the holding in *Jaen* by reliance on *Colaianni* v. *INS*, 490 F.3d 185 (2d Cir. 2007), misconstrues those decisions. (Pl. Opp. at 9 n.3.)

Congress would have clarified a biological relationship requirement in Section 309, but not Section 301, when it amended both provisions in 1986. Nor do Defendants respond to Plaintiffs' argument that it is a "well-established canon of statutory interpretation that the use of different words or terms within a statute demonstrates that Congress intended to convey a different meaning for those words." (Pl. Mem. at 28 n.12 (quoting *Race Tires Am., Inc.* v. *Hoosier Racing Tire Corp.*, 674 F.3d 158, 165 (3d Cir. 2012))); *see also Scales*, 232 F.3d at 1164 ("If Congress had wanted to ensure" a biological relationship "about a person born in wedlock, 'it knew how to do so.'"); *Mize*, 482 F. Supp. 3d at 1339 ("Congress knew how to require a biological relationship" and "it intentionally declined to do so in Section 301(c)").

Defendants also fail to account for the redundancy that would be created by construing both Section 301 and Section 309 to include a biological relationship requirement. (*See* Pl. Mem. at 29.) Indeed, the court in *Kiviti* rejected Defendants' argument, in part, for this reason. 467 F. Supp. 3d at 308–09 (interpreting Section 301 "to include a biological relationship requirement would mean that [Section 309], which by reference directs the application of [Section 301] under certain circumstances, contains two biological relationship requirements, an interpretation that runs afoul of" statutory interpretation principles).

Fourth, the courts also have rejected Defendants' argument that Congress "is presumed to have been aware of" the FAM policy and thus could have

amended Section 301(g) to "clarify that legal parentage was sufficient to convey citizenship under that provision, but did not do so." (Opp. at 7–8.) Defendants offer "no authority for the application of this [re-enactment] principle, typically applied to agency interpretations contained in promulgated regulations subject to notice and comment, to an internal policy manual such as the FAM." *Kiviti*, 467 F. Supp. 3d at 310; *see also Mize*, 482 F. Supp. 3d at 1340–41; *Jaen*, 899 F.3d at 187 n.4 ("[t]he FAM does not even purport to interpret" Section 301); *Scales*, 232 F.3d at 1166 ("the FAM is not specifically an interpretation of § [301]"). And there is no evidence that Congress was aware of the FAM policy when amending the INA in 1986. *See Kiviti*, 467 F. Supp. 3d at 311; *Mize*, 482 F. Supp. 3d at 1340–41.[6] In any event, the re-

[6] The *en banc* decision in *Bastardo-Vale* v. *Attorney General United States*, 934 F.3d 255 (3d Cir. 2019), on which Defendants rely (Opp. at 7), strongly supports Plaintiffs' arguments here. There, the Third Circuit reaffirmed that courts must construe statutes to avoid rendering any of their terms "meaningless" and to ensure that "no clause, sentence, or word shall be superfluous, void, or insignificant." *Bastardo-Vale*, 934 F.3d at 262 (quoting *TRW Inc.* v. *Andrews*, 534 U.S. 19, 31 (2001)). *Bastardo-Vale* also recognized that a "court's prior judicial construction of a statute trumps an agency construction otherwise entitled to *Chevron* deference . . . if the prior court decision holds that its construction follows from the unambiguous terms of the statute and thus leaves no room for agency discretion." *Id.* at 259 n.1 (quoting *Nat'l Cable & Telecomm. Ass'n* v. *Brand X Internet Servs.*, 545 U.S. 967, 982 (2005)). *Bastardo-Vale*'s reliance on the reenactment doctrine also is not relevant here because the agency practice at issue there had been recognized by courts before Congress amended the asylum law. *Id.* at 263, 264 n.5; *see also Beltran-Zavala* v. *INS*, 912 F.2d 1027, 1031–32 (9th Cir. 1990) (recognizing the agency's interpretation in *In re Frentescu*, 18 I. & N. Dec. 244, 247 (B.I.A. 1982), years before Congress amended the asylum law in 1996). Here, there was no court decision addressing the State Department's attempt to read a biological relationship requirement into Section 301 before Congress amended Section 301 in 1986. Defendants' reliance on *Chugach Management Services* v. *Jetnil*, 863 F.3d 1168 (9th Cir. 2017), and *Lorillard* v. *Pons*, 434 U.S. 575 (1978), is similarly misplaced. In *Chugach Management Services*, Congress was presumed to have been aware of a judicially created doctrine articulated by the Supreme Court when Congress expanded Defense Base Act coverage in 1958. 863 F.3d. at 1174. In *Lorillard*, the Supreme Court found that Congress "exhibited both a detailed

enactment doctrine "is secondary to consideration of the text of the statute itself and inapplicable where, as here, the court has already found the statutory language itself to be sufficient to establish its clear meaning," *Kiviti*, 467 F. Supp. 3d at 310; and even if applicable, "its limited weight would not tip the scales conclusively in favor of" Defendants' reading. *Mize*, 482 F. Supp. 3d at 1341.

B. The Opposition Does Not Demonstrate that the FAM Policy Satisfies the Prerequisites for *Skidmore* Deference.

Defendants attempt to dismiss Plaintiffs' arguments against the application of *Skidmore* deference as "policy-based rationales" and ignore that no court has afforded deference to the FAM policy. (Opp. at 8–9.) *See Jaen*, 899 F.3d at 187 n.4 (no *Chevron* deference); *Scales*, 232 F.3d at 1166 (same); *Kiviti*, 467 F. Supp. 3d at 311 (no *Skidmore* deference); *Sabra*, 453 F. Supp. 3d at 320 (same); *Mize*, 482 F. Supp. 3d at 1340–41 (same). None of Defendants' arguments compels a different conclusion here.

First, not surprisingly, Defendants offer no support for their assertion that the FAM policy is consistent with the language of Section 301(g) (Opp. at 10), as all the courts to consider this issue have ruled to the contrary. (Pl. Mem. at 35–36; Pl. Opp. at 19–20.) This divergence between the INA and Defendants' policy disqualifies the policy from the requested deference. *See Sabra*, 453 F. Supp. 3d at

---

knowledge of the [statutory] provisions and their judicial interpretation" at issue when it took subsequent legislative action. 434 U.S. at 581.

320 (refusing to defer to the State Department's interpretation "because the plain language of [Section 301] does not require proof of a 'biological relationship'").

Second, Defendants seek to minimize the inconsistencies created by the State Department's policy change in 2014 regarding the types of relationships that would constitute a "biological relationship" under the FAM policy. Defendants acknowledge that they reversed course to "recognize gestation as a form of biological relationship between mother and child," but assert that this change did not alter their position that Section 301 includes a biological relationship requirement. (Opp. at 9.) Defendants ignore that this about-face resulted from a unilateral change in the State Department's view of the types of relationships that satisfy the biological relationship requirement it reads into Section 301 and not from any amendment of the statute. Other courts have rejected Defendants' deference argument, in part, because these revisions show that the State Department's policy lacks the requisite consistency. *See, e.g.*, *Dvash-Banks*, 2019 WL 911799, at *5; *Kiviti*, 467 F. Supp. 3d at 302.

The State Department's policy also is internally inconsistent. Although the State Department deems a legal parent who is a gestational mother to be a biological mother, regardless of whether she contributed genetic material, the FAM does not consider its biological relationship requirement to cover someone who contributes genetic material but is not the child's legal parent, or a woman who

gestates the child but is not the child's legal parent. (SOF ¶¶ 64–65, 71–73, ECF No. 66-3); *see also* 8 FAM § 304.3-1(c). The State Department's understanding of the supposed "biological relationship" requirement thus essentially turns on legal, not biological, relationships.

Third, Defendants' argument concerning "*jus sanguinis* citizenship" fails to address the showing in Plaintiffs' Motion that Defendants misconstrue that concept (*see* Pl. Mem. at 34–35; *see also* Pl. Opp. at 14–16), and, in any event, misses the point. Courts consistently have rejected Defendants' reliance on *jus sanguinis* as a basis for deference because Defendants have not, and cannot, point to any authoritative source in which the U.S. ever explicitly adopted Defendants' extreme (or any) version of *jus sanguinis* citizenship. *See Kiviti*, 467 F. Supp. 3d at 311–12; *Mize*, 482 F. Supp. 3d at 1341–42. As Plaintiffs demonstrated in their Motion, Defendants' *jus sanguinis* argument is based on a distortion of a Roman law principle and is not rooted in the text of the statute or law of this country. (Pl. Mem. at 34–35.)

Fourth, Defendants erroneously argue that their interpretation is entitled to deference because it "d[oes] not foreclose the Zaccari-Blixt family from maintaining unity." (Opp. at 9.) As Plaintiffs' Motion and Opposition demonstrate, an agency can neither impose its own requirements that are inconsistent with the statute's text and purpose, nor excuse such a departure by contending that it is

remediable through other avenues. (*See* Pl. Mem. at 17–18, 30–33; Pl. Opp. at 28–31.) Further, Defendants continue to diminish the harmful effects of their policy on the Zaccari-Blixt family, never addressing the FAM's creation of artificial distinctions within families or the resulting stigma and concrete harms. (*See* Pl. Mem. at 31–33.)

Fifth, Defendants' insistence that interests in "preventing citizenship fraud counsel in favor of deferring to the Department's interpretation" (Opp. at 10) is both factually irrelevant and legally incorrect. It is undisputed that fraud is not at issue here, and even if the FAM policy were designed to address such concerns, that would not give the State Department license to read into Section 301 a legal requirement that the statute does not contain. *Util. Air Regul. Grp.*, 573 U.S. at 328 ("[A]n agency may not rewrite clear statutory terms to suit its own sense of how the statute should operate").[7]

C. Defendants' Opposition Misconstrues the Constitutional Avoidance Doctrine and Ignores Precedent Holding that the State Department's Policy Raises Serious Constitutional Issues.

Defendants erroneously suggest that the canon of constitutional avoidance requires Plaintiffs to establish a full-fledged constitutional violation. (*See*

[7] Even if the Court were inclined to defer to the State Department's policy under *Skidmore*, "*Skidmore* deference 'cannot be decisive'" when, as here, "constitutional avoidance applies." *Mize*, 482 F. Supp. 3d at 1340 (quoting *Lowe* v. *SEC*, 472 U.S. 181, 216 (1985) (White, J., concurring)). (*See*, *infra*, Section II.C.)

Opp. at 11–12.) Not so. *See Clark* v. *Martinez*, 543 U.S. 371, 381 (2005) ("[O]ne of the canon's chief justifications is that it allows courts to *avoid* the decision of constitutional questions" (emphasis in original).). Rather, the "problematic construction need only 'give rise to serious constitutional questions,' 'grave doubts,' or a 'serious likelihood' of unconstitutionality." *Mize*, 482 F. Supp. 3d at 1333 (citations omitted). Further, "[t]he question is not whether [a saving construction] is the most natural interpretation . . . , but only whether it is a fairly possible one," *Nat'l Fed'n of Indep. Bus.* v. *Sebelius*, 567 U.S. 519, 563 (2012) (internal quotation marks omitted). Here, Defendants have conceded in their Cross-Motion that it is plausible to read Section 301, as Plaintiffs do, as not requiring a biological relationship. (*See Defs.' Mot. Partial Summ. J.* at 10, ECF No. 67-1.)

In asserting that their interpretation "raises no constitutional concerns" (Opp. at 10), Defendants fail to acknowledge that *Mize* and *Kiviti* specifically held to the contrary. The court in *Kiviti* concluded that the State Department's interpretation raises serious constitutional issues because it relegates the children of married same-sex parents to the INA's "out of wedlock" provision and treats them differently from children of different-sex spouses. 467 F. Supp. 3d at 313–14. The court rejected the State Department's argument, reasserted here, that its policy was "evenhandedly [applied], against both same-sex and opposite-sex couples alike." *Id.* at 313. The court found that, "on its face, some, if not most, opposite-sex couples

will be permitted to confer citizenship on their child under [Section 301] without any proof of a biological relationship, while no male same-sex couple could ever have a child in wedlock who could qualify for citizenship under [Section 301]." *Id.* at 314. The court thus held that the State Department's interpretation raised serious constitutional questions and rejected it under the canon of constitutional avoidance.

The court in *Mize* similarly applied the doctrine of constitutional avoidance because it concluded that the State Department's interpretation would result in a statute that denies married same-sex couples the full panoply of benefits attendant to marriage. 482 F. Supp. 3d at 1335. The court rejected the State Department's argument that derivative citizenship is not among "'the constellation of benefits . . . linked to marriage,'" and held that the State Department's interpretation raised serious constitutional issues because it "would result in a statute that (1) provides a benefit, (2) conditioned on marriage, (3) that is unavailable to certain married same-sex couples." *Id*.

Defendants' Opposition does not even mention these rulings. Instead, Defendants attempt prematurely to litigate the merits of Plaintiffs' Fifth Amendment claims.[8] But that is not the proper focus. The question at issue here is whether

[8] Pursuant to the September 14, 2020 letter order of Magistrate Judge Clark (ECF No. 64), the merits of Plaintiffs' constitutional claims will be addressed, if necessary, following resolution of the Section 1503(a) claim. Accordingly, Plaintiffs reserve all rights to address in full the constitutional issues and arguments raised in Defendants' Opposition and the other aspects of Plaintiffs' constitutional claims if and when those matters become ready for adjudication.

Defendants' interpretation raises serious constitutional concerns, not whether a constitutional violation has in fact occurred. *See Kiviti*, 467 F. Supp. 3d at 313 ("[I]f one proposed statutory interpretation 'would raise a multitude of constitutional problems,'" the courts should adopt a competing plausible interpretation "even without a finding of an actual constitutional violation." (quoting *Clark*, 543 U.S. at 380–81)). This Court should follow the determinations of other federal courts that Defendants' construction of Section 301(g) does raise such concerns and accordingly reject that interpretation.

III. CONCLUSION

For the foregoing reasons and for those set out in Plaintiffs' Motion and Plaintiffs' other submissions in connection with the pending cross-motions, Plaintiffs request that the Court grant Plaintiffs' Motion, and deny the Cross-Motion, in full, and grant to Plaintiffs such other and further relief as the Court deems just and proper.

Dated: May 21, 2021

Respectfully Submitted,

/s/ *Theodore Edelman*

Theodore Edelman (*pro hac vice*)
Jessica M. Klein (*pro hac vice*)
Lauren M. Goldsmith (*pro hac vice*)
Mark A. Makar
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: 212-558-4000

Aaron C. Morris (*pro hac vice*)
IMMIGRATION EQUALITY

40 Exchange Place, Suite 1300
New York, New York 10005
Telephone: 212-714-2904

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

ALLISON DAWN BLIXT and L. Z.-B.,	:	
Plaintiffs,	:	
-against-	:	Civ. No. 2:20-cv-02102-KM-JBC
THE UNITED STATES DEPARTMENT OF STATE and THE HONORABLE REX W. TILLERSON, Secretary of State,	:	Hon. Kevin McNulty
Defendants.[1]	:	

CERTIFICATE OF SERVICE

I, **Mark A. Makar**, hereby certify that I am an associate at Sullivan & Cromwell LLP and am one of the attorneys representing Plaintiffs *pro bono* in the above-captioned action ("Action"), and that on May 21, 2021, I caused a copy of the *Reply in Support of Plaintiffs' Motion for Partial Summary Judgment*, and this *Certificate of Service* to be electronically filed and served on all counsel of record in the Action via the Court's Electronic Case Filing System.

Dated: May 21, 2021

/s/ *Mark A. Makar*
Mark A. Makar

[1] Antony J. Blinken was confirmed as United States Secretary of State on January 26, 2021; and, pursuant to Federal Rule of Civil Procedure 25(d), has been "automatically substituted" in his official capacity for his predecessor.