

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.

Honorable Antony J. Blinken, in his official capacity as Secretary of State (together, “Defendants”; jointly, with Plaintiffs, “the Parties”), hereby respectfully submit the following *Stipulation of Dismissal Without Prejudice Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii)* (“Stipulation”):

WHEREAS, on January 22, 2018, Plaintiffs initiated the above-captioned action (“Action”) in the United States District Court for the District of Columbia (“D.D.C.”) (ECF No. 1), asserting claims under the Administrative Procedure Act, 5 U.S.C. § 702, (“APA”) and the Due Process and Equal Protection Clauses of the Fifth Amendment of the United States Constitution;

WHEREAS, on May 15, 2019, the court in the D.D.C. denied Defendants’ *Motion to Dismiss for Lack of Subject Matter Jurisdiction, and Failure to State a Claim on Which Relief Can be Granted* (Minute Order, dated May 15, 2019);

WHEREAS, in or about late 2019, Plaintiffs relocated from London, England, to Essex County, New Jersey;

WHEREAS, on February 13, 2020, the Parties filed a *Joint Motion to Transfer Case Pursuant to 28 U.S.C. § 1404(a)* (ECF No. 48) (“Transfer Motion”);

WHEREAS, on February 14, 2020, the court in the D.D.C. granted the Transfer Motion (Minute Order, dated February 14, 2020);

WHEREAS, on April 13, 2020, Plaintiffs filed their unopposed *Motion for Leave to File the First Amended Complaint* (“Motion to Amend”), requesting leave to substitute a claim for declaratory relief under 8 U.S.C. § 1503(a) (“Section 1503(a)”) for their claim under the APA and updating certain allegations of the original Complaint (ECF No. 53);

WHEREAS, by Order dated July 13, 2020, the Court granted the Motion to Amend (ECF No. 55);

WHEREAS, on July 14, 2020, Plaintiffs filed the First Amended Complaint challenging the validity of Defendants’ interpretation of Section 301(g) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1401 (“Section 301”), pursuant to which the State Department denied L. Z.-B.’s applications for a Consular Report of Birth Abroad (“CRBA”) and a U.S. passport on the ground that he did not share a biological relationship with his U.S. citizen parent at the time of his birth (ECF No. 56);

WHEREAS, the Parties jointly proposed to the Court that it would promote the orderly and efficient resolution of the Action for the Court to adjudicate in the first instance Plaintiffs’ Section 1503(a) claim and to defer resolution of the constitutional claims;

WHEREAS, by Order dated September 17, 2020, the Court set a briefing schedule for the Parties’ anticipated cross-motions for partial summary

judgment on Plaintiffs’ Section 1503(a) claim (the “Cross-Motions”) and stayed discovery on Plaintiffs’ constitutional claims pending further order of the Court (ECF No. 64);

WHEREAS, on November 18, 2020, the Parties filed the Cross-Motions (ECF Nos. 66, 67) and supporting briefs relating to those motions (ECF Nos. 66-1, 67-1), and on January 4, 2021, the Parties filed opposing briefs relating to those motions (ECF Nos. 69, 70);

WHEREAS, on January 28, 2021, Defendants filed their *Consent Motion for Extension of Time to File Reply*, seeking a 30-day extension of time to file the Parties’ replies in support of the Cross-Motions to enable “new leadership” at the State Department “sufficient time to become familiar with the issues in this case” (ECF No. 71), which the Court So Ordered on January 29, 2021 (ECF No. 72);

WHEREAS, on March 4, 2021, Defendants filed their *Notice of Motion and Motion for 60-Day Stay of Case Deadlines*, requesting a further 60-day stay of case deadlines to enable “the State Department to engage in a broader assessment of the policies this litigation implicates” (ECF No. 73), which the Court So Ordered, with the exception of Defendants’ request that the extension end in a status conference, on March 8, 2021 (ECF No. 75);

WHEREAS, on May 6, 2021, Defendants filed their *Notice of Motion and Motion for 14-Day Extension of Case Deadlines*, in which they stated that “the

[State] Department’s active policy review is in its final stages at the senior levels of the [State] Department” and “expects the review to be completed and any accompanying policy changes to be adopted shortly” and requested a further 14-day extension of case deadlines (ECF No. 77), which the Court So Ordered on May 7, 2021 (ECF No. 79);

WHEREAS, on May 18, 2021, the State Department issued a press release announcing that “[r]ecognizing the advances in assisted reproductive technology (ART), the State Department is updating [its] interpretation and application of Section 301 of the Immigration and Nationality Act (INA), which establishes the requirements for acquisition of U.S. citizenship at birth” (the “May 18, 2021 Press Release,” available at <https://www.state.gov/u-s-citizenship-transmission-and-assisted-reproductive-technology/>);

WHEREAS, on May 20, 2021, Defendants filed their *Notice of Motion and Consent Motion for 30-Day Stay of Case Deadlines*, requesting a further 30-day stay of case deadlines in light of the State Department’s May 18, 2021 Press Release (ECF No. 83), which the Court So Ordered on May 21, 2021 (ECF No. 85);

WHEREAS, on May 21, 2021 Plaintiffs filed their reply brief relating to the Cross-Motions (ECF No. 84), but the adjudication of the Cross-Motions currently is stayed pursuant to the Court’s May 21, 2021 Order (ECF No. 85);

WHEREAS, the State Department's updated interpretation of Section 301 now provides that, "children born abroad to parents, at least one of whom is a U.S. citizen and who are married to each other at the time of the birth, will be U.S. citizens from birth if they have a genetic or gestational tie to at least one of their parents and meet the INA's other requirements" (May 18, 2021 Press Release);

WHEREAS, the State Department applies its updated interpretation of Section 301 retroactively;

WHEREAS, on June 8, 2021, the State Department determined that L. Z.-B. met his burden of demonstrating that he is a U.S. citizen pursuant to Section 301(g) and issued a CRBA and a U.S. passport, which recognizes that L. Z.-B. acquired U.S. citizenship on his date of birth; and

WHEREAS, L. Z.-B. has received the CRBA and U.S. passport issued to him by the State Department.

NOW, THEREFORE, the Parties hereby stipulate and agree, subject to the Court's approval, that the Action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

Dated: July 21, 2021

Respectfully Submitted,

/s/ Theodore Edelman

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Dated: July 21, 2021

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SO ORDERED.

s/Kevin McNulty
Hon. Kevin McNulty
U.S. District Judge
Date: 7/22/2021