

United States Court of Federal Claims

Esther Jenke, et al.

No. 24-2005-SSS

v.

United States of America

PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

This case challenges the legality of the \$2,350 fee charged by the U.S. Department of State for processing voluntary renunciations of U.S. citizenship under 8 U.S.C. § 1481(a)(5). The theory of liability is that this fee—uniformly imposed on all renunciants—far exceeds the actual cost of providing renunciation services, is used to fund unrelated services, and is unfair and unconstitutional, thereby violating the Independent Offices Appropriation Act (“IOAA”), which authorizes agencies to charge fees for services “based on the costs to the Government” and requires such fees to be “fair.” 31 U.S.C. § 9701.

As demonstrated by the government’s own Cost of Service Model, the fee includes indirect costs, such as “Other Bureau Services” and “ICASS,” that are not directly related to renunciation services, and the fee generates significant surplus revenue used for unrelated government functions, contrary to the IOAA’s cost-based mandate. The fee’s calculation also relies on flawed volume projections (1,703 renunciations annually) that underestimate the actual number of renunciations (averaging over 4,000 annually), further inflating the fee beyond permissible costs. Moreover, the \$2,350 fee is blatantly unfair and unconstitutional.

Because this theory of liability applies equally to all individuals who paid the \$2,350 Renunciation Fee within the applicable limitations period and because the other prerequisites of Rule 23 of the Rules of the United States Court of Federal Claims (“RCFC”) are satisfied as further demonstrated in the accompanying Memorandum of Law, Plaintiffs move to certify¹ this case as a class action under RCFC 23 on behalf of themselves and the following class: “All individuals who paid the \$2,350 fee for voluntary renunciation of U.S. citizenship under 8 U.S.C. § 1481(a)(5) on or after October 4, 2017, excluding class counsel and agencies of the federal government.”

Date: June 18, 2025

Respectfully submitted,

/s/ L. Marc Zell

L. Marc Zell, *of counsel*
 ZELL & ASSOCIATES INTERNATIONAL
 ADVOCATES, LLC
 800 Connecticut Ave.
 Washington, D.C.
 20006
 Email: mzell@fandz.com

/s/ Noam Schreiber

Noam Schreiber, *counsel of record*
 34 Ben Yehuda St.
 14th Floor
 Jerusalem, Israel 9423001
 011-972-2-633-6300
 Email: noam.schreiber@fandz.com

Counsel for Plaintiffs

¹ Under RCFC 23(c)(1), “[a]t an early practicable time after a person sues as a class representative, the court must determine by order whether to certify the action as a class action.” This lawsuit began in the United States District Court for District of Columbia (1:23-cv-2950), but was subsequently transferred to this Court on November 26, 2024, by order of Judge Carl J. Nichols dated September 26, 2024. *See* Dkt. no. 26. The Amended-Transferred Complaint was docketed on December 23, 2024 (ECF 35). After seeking extensions to file a response to the Amended Complaint, on April 7, 2025, the government filed a motion to stay the proceedings (ECF 43), which, after a telephonic conference held on May 15, 2025, was denied on May 16, 2025 (ECF 46).