

Appendix -- A Sample Mandamus Complaint

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF [enter court district]

[enter name(s) of plaintiff(s)])
)
)
 Plaintiff(s),) Case No.
)
 v.)
)
 UNITED STATES OF AMERICA,)
 et al.,)
)
 Defendant(s).)

COMPLAINT

Plaintiffs, by and through their undersigned counsel, allege as follows and respectfully request that this Court compel Defendants to adjudicate Plaintiffs' unreasonably delayed immigration applications.

PARTIES

1. Plaintiffs, [enter name of Plaintiff(s)], are nationals of [enter country] residing in [enter place of residence].

2. Plaintiffs bring this action to compel Defendants to adjudicate Plaintiffs' application/petition for [enter immigration benefit sought] on Form [enter form number]. The subject application was filed on [enter date of submission] and given receipt number [enter receipt number]. The subject application remains pending and has been delayed for [enter number of months delayed] months. The normal processing times for such an application is [enter normal processing time for the subject application/petition] months. This delay is unreasonable as a matter of law, outside of the normal processing time and beyond the 180 days that Congress envisioned for such applications. 8 U. S. C. § 1571(b) (it has long been "the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application").

3. This delay has already created a significant hardship for Plaintiffs because [describe hardships].

4. Plaintiffs have made efforts to expedite the application and have it adjudicated, without success. For example, Plaintiffs have [describe efforts].

5. Nothing impedes a final decision by Defendants. Defendants' undue delay in the processing of Plaintiffs' applications will be the direct and sole cause of serious hardship to Plaintiffs which, if the pending application is not promptly decided, will prejudice Plaintiffs. Plaintiffs file this action to compel the prompt adjudication of their applications.

6. Defendant UNITED STATES OF AMERICA is this country's government. Defendant DEPARTMENT OF HOMELAND SECURITY ("DHS") is the agency of the United States that is responsible for processing visa and immigration-related matters, and implementing the immigrant and non-

immigrant visa provisions of the law. Defendant ALEJANDRO MAYORKAS is the Secretary of DHS, named in an official capacity. Defendant UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES (“USCIS”) is the component of the DHS that is responsible for processing visa and immigration-related matters, and implementing the immigrant and non-immigrant visa provisions of the law. USCIS activity is carried out by, among others, Defendant UR MENDOZA JADDOU is Director of USCIS, named in an official capacity. [enter any additional defendants] Defendants JOHN DOE(S) 1-10 and JANE DOE(S) 1-10 are unknown individuals, employees and agents of the United States, serving in an official capacity as an agent of the government of the United States and being named in such official capacity, arising from their misconduct and failure to act as alleged herein. These unnamed individuals and entities are included in the term “Defendants” as used herein. Plaintiffs reserve the right to name these Doe entities and individuals, and add them as parties to this Complaint.

JURISDICTION & VENUE

7. Jurisdiction is proper under 28 U.S.C. § 1331 and § 1346(a)(2) in that the matter in controversy arises under the Constitution and laws of the United States, and the United States is a defendant. This Court also has jurisdiction over the present action pursuant to 28 U.S.C. § 2201 (Declaratory Judgment Act); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 1361 (Writ of Mandamus).

8. Venue is proper in this District under 28 U.S.C. § 1391(e) because Plaintiffs reside in, Defendants are located in, and/or the immigration applications that are the subject of this action are being processed in, this District.

COUNT ONE
WRIT OF MANDAMUS

9. The foregoing allegations are realleged and incorporated herein.

10. Defendants owe a ministerial duty to Plaintiffs to adjudicate the subject applications.

11. The delay in adjudicating the subject applications is unreasonable as a matter of law.

12. No other adequate remedy is available to Plaintiffs.

13. This Court has authority under 28 U.S.C. § 1361 to compel Defendants to adjudicate the subject applications.

COUNT TWO
ADMINISTRATIVE PROCEDURE ACT

14. The foregoing allegations are realleged and incorporated herein.

15. The Administrative Procedure Act requires the Defendants to adjudicate petitions within a reasonable time and without undue delay.

16. The delay in adjudicating the subject applications is unreasonable as a matter of law.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs pray that this Honorable Court grant them the following relief:

- a. Assume jurisdiction over this matter;
- b. Declare that Defendants unreasonably delayed, and have unlawfully failed to complete, the adjudication of Plaintiffs' pending immigration benefits processes;
- c. Order Defendants to adjudicate Plaintiffs' applications within 10 days of such order;
- d. Retain jurisdiction over this case to ensure compliance with all of the Court's orders;
- e. Award costs and attorney fees under the Equal Access to Justice Act (EAJA), 5 U. S. C. § 2412, and on any other basis justified under law; and,
- f. Such other and further relief that the Court deems just and proper.

DATED:
Submitted,

Respectfully