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*U.S. Department of State Files Motion to Dismiss Lawsuit Challenging the Constitutionality
of the Suspension of Voluntary Expatriation Services*

April 5, 2022

PARIS – The U.S. Department of State has asked a federal court to dismiss a lawsuit that was filed by the Association of Accidental Americans, a French non-profit society, together with 11 individual plaintiffs, challenging the government’s policy of suspending voluntary expatriation services in U.S. embassies and consulates around the world.

Plaintiffs, U.S. citizens, some residing in Europe and Asia, wish to renounce their U.S. citizenship due to the U.S. government's discriminatory treatment of its citizens residing abroad, especially in the areas of financial privacy and taxation

According to the plaintiffs, the right to renounce U.S. nationality is a fundamental, natural and inherent right protected by the U.S. Constitution. The State Department’s suspension of renunciation-related services is forcing plaintiffs to remain U.S. citizens against their will. Plaintiffs also claim that the suspension and delay in renunciation services violated the Administrative Procedure Act.

Ever since the passage of the Foreign Account Tax Compliance Act (“FATCA”) — a bulk data collection program requiring foreign financial institutions to report to the IRS detailed information about the accounts of U.S. citizens living abroad— U.S. citizens abroad have been treated as financial pariahs by foreign financial institutions. In many countries, banks have closed or frozen accounts maintained by U.S. persons. Elsewhere, banks refuse to provide basic services to U.S. citizens, imposing unreasonable limitations on their ability to carry out their business and daily affairs.

After a delay of over 5 months, on April 4, 2022, the government filed a motion to dismiss the complaint. The government argues that it has no “clear duty” to arrange for renunciation interviews and that any delays in providing renunciation services is “reasonable.” The government also claims that Plaintiffs do not have a fundamental right to “obtain an appointment [...] within days or weeks of requesting one.” However, the government does not address the fact that, for over two years, it had completely suspended these services, making it impossible to schedule an appointment at U.S. missions abroad.

The government equates U.S. citizens wishing to exercise their right to renounce with non-U.S. citizens wishing to apply for non-immigrant visas. In these latter cases, several courts have held that visa-processing delays due to COVID-19 and related matters were reasonable. Plaintiffs plan to file a comprehensive opposition to the government’s motion. The Association has also filed a separate challenge to the State Department’s \$2,350 renunciation fee. A decision is expected shortly.

The Plaintiffs are being represented by L. Marc Zell and Noam Schreiber of the international law firm, Zell & Associates International Advocates, LLC.

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