



FOR IMMEDIATE RELEASE

Association of Accidental Americans files Cross-Motion for Summary Judgment of its Federal Lawsuit Challenging the Constitutionality of the Suspension of Voluntary Expatriation Services

PARIS (May 17, 2022) – The Association of Accidental Americans, a French non-profit society, together with 11 individual plaintiffs, have filed a motion for summary judgment of its federal lawsuit challenging the government’s policy of suspending and delaying voluntary expatriation services in U.S. embassies and consulates around the world. The lawsuit is currently pending in the United States District Court for the District of Columbia.

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.

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.

In its motion, Plaintiffs argue that while the public has a strong interest in combating the spread of the COVID-19, the U.S. constitution continues to protect fundamental rights — including the right to expatriate. The U.S. government cannot simply invoke the pandemic as an excuse to infringe upon that right unless it is absolutely necessary to further a compelling government interest. Thus, according to the Plaintiffs, a blanket suspension of renunciation services violates the U.S. constitution because the government could have easily continued providing these services “without endangering staff or the public, as it does with other services that it has not suspended.” According to the Plaintiffs, “safety and health procedures have become standard operations in all U.S. missions around the globe and would apply to renunciation services as well, even before the COVID-19 pandemic.” Plaintiffs note several cases in which U.S. courts have held that blanket suspensions and bans due to COVID-19 are unconstitutional. In a case from California released just yesterday, a federal appeals court held that a total ban on public access to a courtroom due to COVID-19 is unconstitutional because video streaming would have been less restrictive. *United States v. Allen*, 2022 WL

1532371 (9th Cir. May 16, 2022).

Plaintiffs also challenge the constitutionality of the government current so-called “waitlist policy.” According to the motion: “The accidental citizen-against-her-will must wait, on average, over 365 days to discard her American citizenship that was imposed upon her, in the first place, without her knowledge or say in the matter.” This is illegal, claims the Plaintiffs, because, among other things, the government “fails to take into consideration other alternatives that would make the renunciation process more efficient, such as remote renunciation appointments.”

Statement by Fabien Lehagre, founder and president of the Association of Accidental Americans:

“ FATCA and other related laws targeting and placing heavy burdens on U.S. citizens abroad have left accidental Americans with little choice but to renounce U.S. citizenship. Not only has the U.S. government levied a \$2,350 fee as a precondition to renounce, but it also now places another obstacle for renunciants: delays and suspensions. The U.S. government can easily make the renunciation process more efficient and faster if it wants to. Moreover, it is clear the Department of State prioritizes the services it provides to non-U.S. citizens seeking a visitor visa to the U.S., at the detriment of its U.S. citizens who wish to expatriate. The U.S. government tells its citizens that they must wait over a year to renounce, while at the same time it provides visa services to non-U.S. nationals at light speed (relative to renunciation services). “

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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